

**General terms and conditions  
of Hanseatic Power Solutions GmbH**

**§ 1 Validity**

- 1.) All deliveries, services and offers of the seller are made exclusively on the basis of these General Terms of Delivery. These are an integral part of all contracts concluded by the seller with his contractual partners (hereinafter also referred to as "the customer") regarding the deliveries or services offered by him. They also apply to all future deliveries and services to the customer, even if they are not again agreed separately.
- 2.) The terms of business of the customer or third parties shall not apply, even if the seller does not object to their validity in individual cases. Even if the seller refers to a letter that contains or refers to the terms of business of the customer or a third party, this does not constitute an agreement with the validity of these terms and conditions.

**§ 2 Offer and contract conclusion**

- 1.) All offers of the seller are non-binding and without obligation, unless they are expressly marked as binding or contain a certain acceptance period. Orders can be accepted by the seller within fourteen days after receipt.
- 2.) The legal relations between seller and customer are solely based on written sales contracts, including these General Terms and Conditions of Delivery. The latter fully reflects all agreements between the parties to the contract. Verbal agreements by the seller before the conclusion of the contract are not legally binding and verbal agreements of the contracting parties are replaced by a written contract, unless it is expressly stated from both respectively that they are binding.
- 3.) Amendments and adjustments to concluded agreements, including these General Terms and Conditions of Delivery, must be made in writing in order to be effective. With the exception of managing directors or authorized signatories, the seller's employees are not entitled to make any verbal agreements that differ from this. For the preservation of the written form, transmission via telecommunications, in particular by fax or by e-mail is sufficient, provided that the copy of the signed declaration is sent.
- 4.) Details given by the seller about the delivered object or service (including weight, size, performance values, capacity, tolerances and technical specifications) as well as our imagery (e.g. drawings and illustrations) are only approximate unless the contract specifies an exact representation. They are not guaranteed characteristics but rather descriptions or distinctive features of the delivery or service. Any customary deviations and deviations, which are carried out according to legal regulations or technical improvements, as well as the replacement of components by equivalent parts, are permissible insofar as they do not impair the usability for the purpose intended by the contract.

- 5.) The seller reserves the title or copyright of all offers and quotations, as well as the drawings, illustrations, calculations, brochures, catalogs, models, tools and other documents and tools provided to the customer. The customer may not make these objects, as such or content, accessible to third parties, make them known, use them themselves or allow them to be used by third parties or reproduce them without the express consent of the seller. At the request of the seller, he shall return these items to the seller and destroy any copies made if they are no longer required by him in the normal course of business or when negotiations do not lead to the conclusion of a contract. Exempt to this is the storage of electronically provided data for the purpose of usual data protection.

### **§ 3 Prices and payment**

- 1.) The prices apply to the service and scope of delivery stated in the order confirmations. Additional or special services are charged separately. The prices are in EURO, ex-works, exclude packing, the legal value added taxes, and if exported, any customs fees as well as any other public charges.
- 2.) The agreed prices are based on the list prices of the seller and if the delivery takes place more than four months after conclusion of the contract, the list prices of the seller at the time of delivery are to be applied (minus an agreed percentage or fixed discount).
- 3.) Invoices are to be paid within 30 days without any deduction, unless otherwise agreed in writing. The 30 days date of the payment starts from the time the seller receives the delivery of goods. Payment by check is excluded, unless it is agreed separately in the individual case. If the customer does not pay on the due date, the outstanding amounts are to be charged at an interest of 5% per annum starting from the due date. The enforcement of higher interest rates and further penalties in the case of default shall remain unaffected.
- 4.) The offset with counterclaims of the customer or the retention of payments due to such claims is only permissible insofar as the counterclaims are undisputed or legally established.
- 5.) The seller shall be entitled to carry out or to deliver any outstanding deliveries or services against prepayment or security if, after conclusion of the contract, it becomes aware of circumstances which substantially reduce the creditworthiness of the customer and by which the payment of the outstanding claims of the seller is jeopardized by the customer from the respective contractual relationship (including other individual contracts for which the same framework contract applies).

### **§ 4 Delivery and delivery times**

- 1.) Delivery shall be made ex-works.

- 2.) The time limits and deadlines for deliveries and services promised by the seller are always only approximate unless a fixed deadline or a fixed date has been explicitly announced or agreed upon. If shipment has been agreed, delivery periods and delivery dates refer to the date of handing over to the freight forwarder, freight carrier or otherwise contracted third party transporters.
- 3.) The seller may - without prejudice to his rights to default on the part of the customer - demand an extension of delivery and service periods or a postponement of delivery and service deadlines for the period in which the customer fails to meet his contractual obligations towards the seller.
- 4.) The seller is not liable for the impossibility of the delivery or for delays in delivery, as far as these are caused by force majeure or other events unforeseeable at the time of the conclusion of the contract (e.g. operational disturbances of all kinds, difficulties in material or energy procurement, transport delays, strikes, lawful lockouts, energy or raw materials, difficulties in procuring necessary governmental approvals, governmental measures, or failure to supply the supplier incorrectly or not in due time) which is not the fault of the seller. If such events make the delivery or service substantially more difficult or impossible for the seller and the hindrance is not only of temporary duration, the seller is entitled to withdraw from the contract. In the case of obstacles of a temporary duration, the delivery or service periods are extended or the delivery or service dates are postponed by the period of the hindrance plus an appropriate lead time. If, as a result of the delay, the customer cannot be expected to accept the delivery or service, he can withdraw from the contract by means of an immediate written declaration against the seller.
- 5.) The seller is only entitled to partial deliveries if
  - partial deliveries can be used by the contracting entity within the scope of the contractual purpose,
  - the delivery of the ordered goods is ensured and
  - the customer does not incur any substantial additional work or additional costs (unless the seller agrees to assume these costs).
- 6.) If the seller is in arrears with a delivery or service or if a delivery or service is impossible for any reason, then the liability of the seller for damages shall be limited per § 8 of these General Terms of Delivery.

#### **§ 5 Place of delivery, dispatch, packaging, transfer of risk, acceptance**

- 1.) The place of fulfilment for all obligations arising from this contract is the headquarters of Hanseatic Power Solutions GmbH, currently Oststraße 67, 22844 Norderstedt, unless otherwise specified. If the seller is also responsible for the installation, the place of fulfilment shall be the place where the installation is to be carried out.
- 2.) The shipping and packaging methods are subject to the seller's discretion.
- 3.) The risk passes to the customer at the point of transfer of the item(s) to be delivered (at which point the commencement of the loading process is decisive) to the freight forwarder, freight carrier or other third parties designated to exe-

cute the shipment. This also applies if partial deliveries are made or the seller still has other services, even if partial deliveries are made or the seller has taken over other services (for example, shipping or installation). If the dispatch or delivery is delayed as a result of circumstances which are the customer's fault, the risk is transferred to the customer from the day on which the delivery item is ready for dispatch and the seller has indicated this to the customer.

- 4.) Storage costs after transfer of risk are borne by the customer. When stored by the seller, the storage costs are [0.25]% of the invoice amount of the items to be stored for each expired week. The right to claim for additional storage costs or request proof of lower storage costs remains reserved.
- 5.) The consignment is insured by the seller only at the explicit request of the customer and at his expense. This can include theft, breakage, transport, fire and water damage or other insurable risks.
- 6.) If an acceptance has to be made, the purchase item shall be deemed accepted if:
  - the delivery and, if the seller also includes the installation, the installation is completed,
  - the seller has communicated this to the customer with reference to the acceptance inspection in accordance with § 5 (6) and has asked him for acceptance,
  - after the fulfillment or installation [twelve] business days have elapsed or the customer has begun to use the purchased item (e.g. the delivered system has been put into operation) and in this case after the delivery [6]
  - the customer has left the acceptance within a period for a reason other than for a defect indicated to the seller, which makes the use of the purchased item impossible or substantially impaired.

### **§ 6 Warranty, material defects**

- 1.) The warranty period is one year from the date of delivery or, as far as acceptance is required, from the date of acceptance. This period does not apply to claims for damages by the customer resulting from injury, to body or health, loss to life or from deliberate or grossly negligent breach of duty on the part of the seller or his vicarious agents, which become statute-barred according to statutory provisions.
- 2.) The goods delivered must be carefully inspected immediately after delivery to the customer or to a third party designated by him. They shall be deemed to have been approved by the customer in respect of obvious defects or other defects which would have been recognizable in the case of an immediate and thorough investigation, if the seller does not receive a written complaint within seven working days after delivery. In respect of other defects, the delivery items shall be deemed to have been approved by the customer if the complaint does not reach the seller within seven working days after the date of the defect; The

defect was already recognizable at an earlier date by the customer under normal use, however this earlier date for the start of the complaint period is decisive. At the request of the seller, a complained delivery item shall be returned to the seller free of freight charges. In the event of a justified complaint, the seller shall refund the costs for the most favorable shipping route; this does not apply in the event that the costs increase because the delivery item is located in a place other than the place of the intended use.

- 3.) In the case of material defects of the goods supplied, the seller shall be obliged and entitled to rectify the defect or replace the goods within a reasonable period. In the event of a fault, i.e. the impossibility, unreasonableness, refusal or unreasonable delay of the repair or replacement delivery, the customer can withdraw from the contract or reduce the purchase price appropriately.
- 4.) If a defect is due to the fault of the customer, the customer may demand damages under the conditions stipulated in § 8.
- 5.) In the case of defects in components of other manufacturers which the seller cannot resolve due to licensing or other reasons, the seller shall, at his own discretion, assert his warranty claims against the manufacturers and suppliers on behalf of the customer or assign them to the customer. Warranty claims against the seller in the case of such defects are subject to the other conditions and subject to these General Terms of Delivery only if the judicial enforcement of the above claims against the manufacturer and suppliers was unsuccessful or, for example, due to insolvency. During the duration of the legal dispute, the statute of limitations of the warranty claims of the customer against the seller is suspended.
- 6.) The warranty does not apply if the customer changes the delivery item without the consent of the seller or has it changed by a third party and the elimination of defects is thereby made impossible or unreasonable. In any case, the customer shall bear the additional costs arising from the correcting of defects.
- 7.) In special instances, a delivery of used goods can be arranged with the customer which are to be excluded from any warranty for material defects.

### **§ 7 Property rights**

- 1.) In accordance with § 7, the seller shall ensure that the delivery item is free from industrial property rights or copyrights. Each contractual partner shall immediately notify the other contract partner in writing if he receives claims regarding the infringement of such rights.
- 2.) In the event that the object of delivery violates an industrial property right or copyright of a third party, the seller shall, at his discretion and at his expense, alter or replace the delivery item in such a way that no further rights of third parties are infringed but so that the delivery item continues to perform the contractually agreed functions, or grant the customer the right to use by concluding a license agreement. If the seller fails to do so within a reasonable period of time, the customer is entitled to withdraw from the contract or reduce the pur-

chase price appropriately. Any damages claims by the customer are subject to the limitations of § 8 of these General Terms of Delivery.

- 3.) In the case of infringements by products from other manufacturers, delivered by the seller, the seller will, at his discretion, assert his claims against the manufacturers and subcontractors on behalf of the customer or assign them to the customer. Claims against the seller in these cases are subject to the provisions of § 7 only if the judicial enforcement of the aforementioned claims against the manufacturers and suppliers was unsuccessful or is, for example, futile due to insolvency.

### **§ 8 Liability for compensations caused by fault**

- 1.) The liability of the seller for damages, irrespective of the legal basis, in particular from impossibility, delay, defective or incorrect delivery, breach of contract, breach of obligations in the case of contractual negotiations and unauthorized action, shall be restricted in accordance with this § 8 .
- 2.) The seller is not liable in the case of simple negligence on the part of his bodies, statutory representatives, employees or other vicarious agents insofar as this is not a violation of contractual obligations. Essential contractual obligations include to deliver and install the delivered goods in good time, the freedom of legal deficiencies and defects of quality, which impair its functionality or usability, as well as consultancy, protection and custody obligations, which are intended to enable the customer to use the delivered goods in accordance with the contract or the protection of the body or life of the customer's staff or the protection of the property of the customer.
- 3.) If the seller acc. § 8 (2) is liable for damages, this liability is limited to damages which the seller has foreseen as a possible consequence of a breach of the contract upon conclusion of the contract or which he should have foreseen in the course of the application of due diligence. Indirect damages and consequential damages, which are the result of defects in the delivery item, are also only substitutable, as far as such damage is typically to be expected when the delivery item is used as intended.
- 4.) In the case of liability for simple negligence, the seller's obligation to pay damages for property damage and resulting additional assets is limited to €150,000 per claim, even if there has been a breach of contractual obligations.
- 5.) The foregoing exclusion and limitation of liability applies to the same extent to the organs, legal representatives, employees and other vicarious agents of the seller.
- 6.) If the seller provides technical information or acts as an adviser and this information or advice is not part of the contractually agreed scope of services, this is free of charge and without any liability.

- 7.) The limitations of this clause 8 shall not apply to the seller's liability for willful conduct, for guaranteed characteristics, for injury to life, body or health or product liability.

### **§ 9 Retention of ownership**

- (1.) The following agreed reservation of ownership serves as security for all current and future claims of the seller against the customer arising from the supply relationships existing between the contract partners.
- (2) The goods supplied by the seller to the customer remain the property of the seller until all the secured claims have been paid in full. These goods as well as the goods which are subject to the retention of ownership in accordance with the following provisions are referred to in the following as "reserved goods".
- (3.) The customer is entitled to process and sell the reserved goods in normal business dealings up to the point of instigation of recovery (paragraph 9). Pledging and collateral assignment as security are not allowed
- (4.) If the reserved goods are processed by the customer, it is agreed that the processing takes place in the name, as well as the account of the seller as manufacturer. If the processing from materials from several owners or the value of the processed article is higher than the value of the reserved goods - the seller directly acquires the co-ownership (fractional ownership) of the newly created article in the ratio of the value of the reserved goods to the value of the newly created article. In the event that no such property purchase should occur regarding the seller, the customer transfers his future property or, in the above-mentioned relationship, co-ownership of the newly created property to the seller.

If the reserved goods are combined with other goods to form a uniform item or is inseparably mixed, and if one of the other items is to be regarded as the main item, the seller transfers the co-ownership to the customer proportional to the single item in the sentence mentioned in sentence 1.

- (5.) In case of resale of the reserved goods the buyer at this early stage assigns by way of security the arising claims against the purchaser – The resulting claim against the acquirer in the case of co-ownership of the seller of a reserved good is proportional to the co-ownership share of the seller. The same applies for claims which replace the reserved goods or arise in regard to the reserved goods, e.g. insurance claims or claims in case of loss or destruction. The seller hereby authorizes the customer to revoke the claims assigned to the seller in his own name. The seller may only revoke these collection authorizations in the event of a recovery.
- (6.) If third parties access the reserved goods, for example by pledging, the customer will immediately inform the seller of the seller's property and inform the seller thereof in order to enable him to enforce his property rights. If the third party is not able to reimburse the seller for the judicial or extrajudicial costs arising in this connection, the customer is liable to the seller.

- (7.) The seller shall release the reserved goods as well as the goods or claims in their place insofar as their value exceeds the amount of the secured claims by more than 50%. The selection of the items to be released afterwards is the seller's responsibility.
- (8.) If, in the case of breach of contract by the customer (e.g. in the case of a delay of payment), the seller is entitled to demand the reserved goods.

### **§ 10 Final clauses**

- 1.) If the customer is a business man, a corporate body under public law, or has no general court of jurisdiction in the Federal Republic of Germany, then the court of jurisdiction for all disputes arising from the business relationship between the seller and the customer is selected by the seller Norderstedt or b either the place of business of the customer. In such cases, however, Norderstedt is the exclusive court of jurisdiction for actions against the seller. Mandatory legal provisions concerning exclusive jurisdiction shall remain unaffected by this regulation.
- 2.) The relations between the seller and the customer are exclusively subject to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) does not apply.
- 3.) In so far as the contract or these General Terms of Delivery contain gaps in the regulations, the legally effective regulations which the contracting parties would have agreed upon in accordance with the economic objectives of the contract and the purpose of these General Terms of Delivery shall be deemed to have been agreed upon.

Note:

The customer acknowledges that the seller stores data from the contractual relationship in accordance with § 28 Bundesdatenschutzgesetz (Data Protection Act) for data processing purposes and reserves the right to transfer the data to third parties (for example) insofar as required, for the fulfillment of the contract.