

TERMS AND CONDITIONS OF DELIVERY
Unitec Energietechnik GmbH
Lindauerstraße 29
6911 Lochau

1. Validity and legally binding nature:

- 1.1. The following conditions relate to all orders accepted and handled by us and shall be deemed to have been accepted and be legally binding when the contractual partner places the order, even if we have not explicitly objected to conditions to the contrary.
- 1.2. If nothing to the contrary is explicitly agreed in writing (even by fax or email in a PDF file) when concluding a contract, then the following conditions shall be an additional part of any contract concluded between us and our contractual partner. This also applies for amendments, addenda or any differing commitments. They shall all require written confirmation signed by an authorised representative of the company in order to be valid.
- 1.3. In any case, our conditions shall take precedence over any terms and conditions or conditions of purchase of our contractual partner.
- 1.4. No later than when placing the order with us or on confirmation of the delivery of the subject of the contract, our partner shall declare that it accepts these Terms and conditions & terms of delivery, and the fact that they apply to any future transactions between us and our contractual partner and that separate reference does not need to be made to these Terms and conditions & terms of delivery in future transactions.

2. Quotation and conclusion of contract:

- 2.1. In principle quotations shall be issued in writing. They are non-binding, unless an explicit agreement has been made to the contrary.

- 2.2. The contract has been concluded when we provide a written declaration of acceptance in the form of an order confirmation (also by fax or email in PDF form).
- 2.3. The information about our products contained in catalogues, brochures, newsletters, advertisements, images, price lists etc. is only applicable if it is explicitly mentioned in our order confirmation.
- 2.4. Plans, sketches or other technical documents and quotation or project documents, as well as samples, catalogues, brochures, images etc. shall always remain our intellectual property.
Any use, copying, distribution, publication or presentation may only be carried out with our explicit consent.
We may ask for them to be returned at any time, and they must be returned immediately if the contract is not concluded (see point 8).

3. Service performance, delivery periods and deadlines:

- 3.1. In principle, we are free to choose a producer who will be entrusted with the delivery of the ordered product.
- 3.2. Delivery periods start on the day of order acceptance (order confirmation), but not before all of the contractual partner's contractual obligations have been fulfilled, and the fulfilment of all of the agreed technical and contractual requirements to be provided by the contractual partner. The delivery periods also only start on the day on which the agreed credit order is opened or the payment guarantee has been provided. This does not affect our right to request compensation from the contractual partner for expenses caused by this delay, even if the contractual partner is not at fault for this delay.
- 3.3. The delivery periods shall be delayed if and for as long as the contractual partner is in default in relation to its obligations, even those resulting from other transactions with us, or until all technical and contractual details have been clarified and the legal requirements for performance have been created.
- 3.4. Partial delivery by us is permitted. In principle, each partial delivery is deemed to be an independent transaction.

- 3.5. The delivery period is deemed to have been complied with on our notification of readiness for dispatch/handover, even if the delivery cannot be carried out or cannot be delivered on time without this being our fault or the fault of the production plant/producer. Products that have been announced as ready for dispatch that are not collected immediately shall be stored at the cost and risk of the contractual partner at our discretion and invoiced as having been delivered.
- 3.6. If the contractual partner does not accept the contractually provided products in the agreed place and/or at the agreed time, and if the delay has not been caused by us, we can either demand immediate fulfilment or set a grace period for the acceptance and then withdraw from the contract.
- 3.7. In the event of delay in delivery due to force majeure (see point 10), we shall not accept liability and are entitled to appropriately delay the performance of accepted obligations or withdraw in full or in part from the contract at our discretion.
- 3.8. Compensation or claims for subsequent delivery are explicitly excluded in these cases. In these cases, our contractual partner is also not entitled to unilaterally withdraw from the order that has been placed.
- 3.9. If we have not performed our obligations on the due date, our contractual partner must grant us an appropriate grace period.
- 3.10. If a product has been rejected, we may store this product at our contractual partner's expense and risk. We are also entitled to demand compensation for all justified expenses which we incur due to the fulfilment of this contract and any related delays, and which are not included in the received payments, to the exclusion of all other claims against our contractual partner.

4. Delivery:

- 4.1. In principle we are free to choose the producer, plant or supplier which is to be entrusted with delivering the ordered product.
- 4.2. Prices that are provided carriage free shall require open, unhindered and safe traffic on access routes. Our contractual partner must also ensure sufficient access for our vehicles at the delivery address.

5. Handover and acceptance:

- 5.1. Use and risk shall transfer to our contractual partner even in the event of only partial commissioning of the entire product or parts thereof by the contractual partner.
- 5.2. Unless specified to the contrary by individual agreements (in particular by INCOTERMS), risks and hazards shall be handed over as soon as we have performed the service at the place of delivery. In principle 'ex works' is agreed as the place of performance.
- 5.3. In the event that we require assistance and support when loading the means of transport, our customer already now indemnifies and holds us harmless for any damage or loss which may result from this.
- 5.4. Claims against us for compensation and loss of profit due to delayed delivery are excluded.

6. Prices:

- 6.1. The price is understood to be net without any deduction in accordance with our order confirmation, unless agreed otherwise.
- 6.2. Additional costs, such as any public fees, duties, import and export taxes or charges, shall be at the expense of the contractual partner unless stated or agreed otherwise.
- 6.3. The term 'as usual', or similar, used in orders only relates to the conduct of our service, and not to prices or additional costs.
- 6.4. If our contractual partner exercises an explicitly agreed right of withdrawal from the contract, any payments for delivered products incurred and made by that point shall be offset against expenses. Material which has been ordered and/or processed exclusively for our contractual partner may not be returned.

7. Payment, due date, consequences of default:

- 7.1. For payments to us, it is agreed that Lochau is the place of performance.
- 7.2. Unless agreed otherwise, payments must be made net immediately after receipt of invoice and to the exclusion of any right of our contractual partner to withhold and offset against any counterclaims which we have not explicitly acknowledged in writing.
- 7.3. Payments are deemed to have been made on the day on which we can dispose of them in the agreed currency.
- 7.4. In the event of pricing in (EUR or CHF), if there is payment default it is agreed that default interest will be 9.2% above the base rate. In addition, all dunning, collection, investigation and information costs and the costs of any lawyer we engage must be reimbursed. Pricing issued in other currencies shall require specially agreed default interest.
- 7.5. Payment by cheque shall require our explicit consent and shall only be accepted subject to the receipt of the equivalent value as payment.
- 7.6. In the absence of explicit instructions, payments shall be credited to the oldest outstanding receivable. In the event of individual receivables, payments shall first be credited against costs, then interest and finally against capital.
- 7.7. In the event of non-compliance with the agreed payment conditions and/or the occurrence of circumstances which cast doubt on the creditworthiness of our contractual partner, we shall also be entitled to make all of our receivables against our contractual partner due immediately, to withdraw from all pending purchase and/or delivery contracts and to demand compensation due to non-fulfilment.

7.8. Agreed price reductions (in particular discounts) shall be lost as a result of this and we shall be entitled to claim the full invoice amount.

This does not affect our right, irrespective of the fault of the contractual partner, to demand compensation including reimbursement of all expenses already incurred in relation to the contract from which we are withdrawing in a case of this nature.

7.9. In the event of default by the contractual partner, we shall also be entitled to forced sale (public auction of movable property by the creditor) according to the regulations of the Commercial Code (UGB).

7.10. Exercising these rights must not result in any liabilities for us in relation to the contractual partner, in particular no claims for compensation against us.

8. Reservation of title:

8.1. The sold products (goods subject to reservation of title) shall remain our property until complete payment of the purchase price and all of our additional receivables, in particular interest and costs. The reservation of title also extends to the products created due to processing and/or connection.

8.2. Our contractual partner must take all local precautions and measures in order to ensure that the agreed reservation of title is also effected in the country in which the supplied product is stored.

8.3. As long as we have right of ownership to the goods subject to reservation of title, our contractual partner is obliged to store these correctly and to insure them with restricted transferability in our favour at its expense against loss and reduction in value, fire and theft, storage and water damage.

8.4. Our contractual partner is obliged to record the reservation of title in advice notes and inform us immediately of third parties (in particular seizures etc.) being given access to the goods subject to reservation of title or to assigned claims. The assignment of the claim of our contractual partner to us must also be suitably documented (by an advice note where appropriate) and our contractual partner's customer must be notified of this no later than on invoicing this customer. In a case such as this, our contractual partner must inform third parties of our rights and

reimburse us for all costs, including any legal fees, relating to the safeguarding of our rights.

9. Industrial property rights and copyright:

- 9.1. Design documents, e.g. plans, sketches and other technical documents, and samples, catalogues, brochures and images shall always remain our intellectual property and are subject to the statutory provisions of the Act Against Unfair Competition (UWG) and the Copyright Act (UrhG).
- 9.2. Documents provided by us may not be duplicated or made accessible to third parties without our consent. We may ask for them to be returned at any time without providing reasons.
- 9.3. If a product is produced by us on the basis of design data, diagrams, models or other specifications of our contractual partner, and if action is taken against us by a third party as a result of these circumstances due to possible infringement of patent, trade mark or pattern protection rights, and/or copyrights, then our contractual partner shall be obliged to indemnify and hold us harmless in full.

10. Force majeure:

- 10.1. Force majeure events shall entitle us to postpone the delivery for the duration of the obstruction and an appropriate start-up period, or to withdraw in full or in part from the contract. This may not result in any liabilities for us in relation to the contractual partner, in particular no claims for compensation.
- 10.2. Force majeure is deemed to be strike, lockout, mobilisation, war, blockade, export and import bans, raw material or fuel shortages, fire, transportation blockades, disruptions to operations or transport and other circumstances which significantly impair the conduct of business or make it impossible, and these apply in the same way regardless of whether they occur for us, our suppliers or their sub-suppliers, the contractual partner or otherwise within its sphere. Force majeure shall also be available to us in the same way for non-delivery or delayed delivery from our suppliers, provided that we are not responsible for the cause.

11. Defects:

- 11.1. The products supplied by us must be inspected for defects by our contractual partner immediately after delivery (handover) and immediate and detailed notification must be given to us of any defects. Notification of hidden defects must be provided as soon as they are discovered. This notification must be in writing (also by fax or email in PDF file) within 8 days of delivery (acceptance, handover, point 5) or discovery.
- 11.2. If defects can be remedied then at our discretion we are entitled to offer improvement, addition of missing items, replacement of the defective goods (products) or price reduction. Any claims beyond this level against us, in particular rights to conversion, compensation and/or replacement, are excluded.
- 11.3. If defects cannot be remedied then at our discretion we are entitled to offer replacement of the defective products or price reduction. Any claims beyond this level against us, in particular rights to conversion, compensation and/or replacement, are excluded.
- 11.4. Claims shall not be recognised if the products are not in the location or in the same condition in which they were delivered. Return of defective products is only permitted with our explicit written consent.
- 11.5. In order to be able to meet our obligation to remedy defects, access to the product supplied by us must be possible in such a way that the defect can be remedied on location without dismantling the supplied product. Our contractual partner must make any third party installing our product aware of this in an explicit and verifiable manner.
- 11.6. Our obligation to remedy defects only relates to products supplied by us. If additional costs, such as structural measures, e.g. removing walls, ceilings or similar, arise in relation to remedying defects, then these shall be borne by the buyer or owner of the object (explicit reference is made to point 11.5.)

12. Guarantee periods/guarantee services:

12.1 The guarantee for reservoirs and boilers is five years from the date of delivery. We provide a two year guarantee for electrical heaters and for accessories such as thermometers, thermostats, controllers and other supplied small parts.

12.2. Gaskets are excluded from all guarantees. If a gasket develops a leak then our contractual partner must carry out an investigation. In any case, in principle the fastening screws must be re-tightened.

If the leak cannot be remedied as a result of this then in principle the gasket will be replaced by us under guarantee. Our contractual partner shall bear the costs of labour incurred in relation to this. In the event of leaks which occur on flange gaskets up to a year after delivery, we shall supply flange gaskets free of charge but shall not bear any related replacement costs.

12.3. The basic guarantee periods as per point 12.1 apply in turn for products subsequently delivered in fulfilment of guarantees. However, the period will not be extended for parts of the original delivery which do not display defects.

12.4. The guarantee extends to the services and product features specified in our order confirmations.

12.5. We meet our guarantee obligations by, at our discretion, repairing defective products or parts of products free of charge, or providing replacement parts free ex works. Any claims of our contractual partner beyond this level are excluded, in particular claims for reduction or conversion or for replacement costs, compensation, costs for identifying the causes of damage, expert assessment or consequential loss (interruption in business, water and environmental damage etc.).

12.6. With our explicit consent, the replacement or repair of defective parts of our products may be carried out by the contractual partner. ~~We~~In this case we will only bear verifiable costs that have been incurred according to prior mutual agreement and approval by us.

12.7. It is the responsibility of our contractual partner to ensure that the basic conditions for normal remedying of damage within the framework of our guarantee services have been provided in advance (see point 11.6.)

12.8. In particular, access to the product supplied by us must be possible in such a way that the guarantee service can be carried out on site without dismantling the product. Our contractual partner must make a third party on whose premises our product is installed aware of this in an explicit and verifiable manner (see point 11.6.)

13. Exclusion of guarantee:

13.1. Damage caused by force majeure, system concepts and designs which do not comply with the relevant state of the art or which have been stipulated and created on the basis of third party project planning (planning office etc.) is excluded from the guarantee. This also applies in the event of non-observance of our technical guidelines and our operating manuals concerning planning, assembly, commissioning, operation and maintenance and incorrect work by third parties. The guarantee also does not cover defects which occur due to product maintenance work that is not carried out but is stipulated and necessary.

13.2. The guarantee also does not cover parts which are subject to natural wear or fuels (with the exception of point 12.2.)

13.3. It also does not cover damage caused by the use of improper heat carriers, corrosion damage, in particular if water treatment systems, descaling agents etc. are connected or unsuitable antifreeze is added, or damage which is caused by incorrect electrical connection or insufficient fusing, by aggressive water, excessive water pressure or inappropriate descaling, chemical or electrolytic influences etc.

The guarantee service from us shall be excluded in the event of periodical or extended emptying of the system, in the event of operation with steam, addition of substances to the heating water which can have an aggressive effect on steel or sealing material, excessive sludge deposits in the heating elements or other parts of the system and in the event of temporary or constant infiltration of oxygen into the system.

13.4. These guarantee claims shall expire in the event of changes or repairs by our contractual partner or a third party if these are not explicitly approved by us in writing.

14. Liability:

- 14.1. We shall only be liable for damage to objects belonging to our contractual partner directly caused during the conduct of the service and caused by us due to gross neglect or intent. All other claims of our contractual partner, in particular to any further compensation including possible consequential loss, are excluded.
- 14.2. The products supplied by us only offer the safety which can usually be expected on the basis of approval regulations, user and operating manuals, regulations of the manufacturer, supplier and/or producer and any other information.
- 14.3. If we are entrusted to solve design problems then liability can only be enforced against us if our contractual partner proves that our delivery and/or service culpably does not comply with general state of the art.
- 14.4. According to mandatory statutory requirements, claims to compensation which exist against us shall be limited to the value of the object which caused the loss, and if this is not permitted, to the invoice value, and if this is again not permitted according to the mandatory statutory provisions, to the actual loss to the explicit exclusion of compensation of lost profit and/or exclusion of compensation for consequential loss, and/or indirect losses or third party losses.
- 14.5. Liability for slight negligence is also excluded, as is compensation for consequential loss and financial losses and savings that have not been made. Interest loss and/or losses due to claims from third parties against our contractual partner, which are intended to be imposed on us, are excluded.
- 14.6. In the event of infringement of the obligations imposed on our contractual partner due to these General Terms and Conditions & Terms of Delivery, and in the event of claims on our part in relation to losses caused by these products which were marketed by the contractual partner, without consideration of the presence of fault the contractual partner is obliged to indemnify and hold us harmless (including any legal and court fees) in full. If our contractual partner has provided compensation to a third party in relation to a product supplied by us on the basis of the provisions of the Product Liability Act (PHG), rights of recourse against us are excluded.

15. Product liability:

- 15.1. We shall be liable within the scope of the Product Liability Act (PHG) for personal injury and material damage suffered by a consumer.
- 15.2. We commit to conscientiously represent the interests of our contractual partner towards the manufacturer within the framework of the PHG, but in principle will have to refer our contractual partner directly to the manufacturer(s) in the event of claims being made in this context.
- 15.3. Commercial or mechanical companies who have purchased products from us are in turn obliged to inform themselves in full about the handling, operation and maintenance of our product. In particular they must inform themselves explicitly about the respective product-specific risks using the operating manuals and about the possible uses.
- 15.4. Our contractual partners are obliged to maintain precise documentation about the products supplied by us so that it is possible to determine unequivocally whether the supplied product was actually from us.
- 15.5. Our contractual partners are obliged to keep this documentation for a period of 10 years from the delivery of our product.
- 15.6. In the event of claims being made against us under the Product Liability Act, without any entitlement to compensation our contractual partner is obliged to provide us with all documentation and other evidence relating to the case of loss immediately and free of charge. Our contractual partners are also obliged to provide us with any necessary support in relation to this.

16. Withdrawal from the contract:

- 16.1. If our contractual partner is in default with the agreed payment or other services (contractual obligations), then we may
- delay the performance of our own obligations until provision of the outstanding payments or other services,
 - use an appropriate extension of the delivery period,

- make the entire remaining unpaid purchase price due for payment (default) and/or
- withdraw from the contract in the event of non-compliance with an appropriate grace period.

16.2. We are entitled to withdraw from the contract:

- if the conduct of the delivery or the start or continuation of the performance is delayed due to reasons for which our contractual partner is responsible, or is further delayed in spite of granting a grace period;
- if there are concerns relating to the solvency of our contractual partner and the latter neither makes advance payments nor provides suitable security before delivery when we request this (see point 7.7.);
- if the extension of the delivery period due to the abovementioned circumstances amounts to more than half of the originally agreed delivery period.

16.3. Withdrawal from the contract on our part can also be declared in relation to part of the delivery or performance which is still outstanding due to the abovementioned reasons.

16.4. Without prejudice to our claims for compensation, in the event of withdrawal from the contract, services or partial services that have already been performed must be invoiced and shall be due for immediate payment.

This applies even if the delivery or service has not yet been accepted by our contractual partner and/or for preliminary services already performed by us. However, we also have the right to demand the return of items that have already been delivered.

16.5. If insolvency proceedings are opened in relation to a contractual party's assets, or an application for the initiation of insolvency proceedings is rejected due to insufficient assets, the other contractual party is entitled to withdraw from the contract without granting a grace period.

17. Mediation clause:

- 17.1. The parties shall initially attempt to resolve all disputes and/or conflicts resulting from or in relation to this contract, or relating to breach of the contract itself, termination or invalidity of contractual provisions, amicably in the form of mediation proceedings via an impartial third party (mediator).
- 17.2. Within four weeks of first addressing the conflict, the parties shall conclude an agreement with the mediator about the course of the proceedings. During the proceedings, all deadlines shall be blocked and the parties must maintain the strictest confidentiality and discretion.
- 17.3. In the event of an agreement via mediation not being made within four weeks or mediation proceedings not producing a result within a further 4 weeks, the parties shall settle all disputes resulting from these proceedings according to the following provisions.

18. Jurisdiction and applicable law:

- 18.1. The place of jurisdiction is the competent court for Lochau.
- 18.2. Substantive Austrian law as applicable at the time when the contract is concluded shall apply to the contract and these General terms and conditions & terms of delivery.

19. Data protection and confidentiality:

- 19.1. The customer explicitly gives his consent to the saving of all data relevant for the business relationship.
- 19.2. The contractual parties commit to maintain complete confidentiality regarding knowledge they gain as a result of the business relationship (in particular trade secrets) in relation to third parties.

19.3. Our contractual partner shall also only use any documents (including samples, models and data, as well as documentation) and knowledge which it receives as a result of the business relationship for common purposes and, if we designate them to be confidential or have an obvious interest in the maintenance of confidentiality, shall use the same level of care for confidentiality in relation to third parties as it would for its own documents and knowledge.

20. Miscellaneous:

20.1. If individual provisions of the contract or these General terms and conditions are ineffective, in full or in part, the other provisions shall remain effective. In the event of partial ineffectiveness, the contractual partners commit to replace the ineffective provisions with provisions which come as close as possible to the purpose of the ineffective provision.

20.2. In the event of contracts or General terms and conditions & terms of delivery being drawn up by us in German and another language, the provisions in German shall take precedence. Our General terms and conditions & terms of delivery in English shall apply to contracts in English.

As of 07/2014

Unitec Energietechnik GmbH