

General Terms and Conditions of Delivery of Friootherm Deutschland GmbH

In Case of conflicts, discrepancies, ambiguities or whatsoever between the B 3.0.0.1_Allgemeine Lieferbedingungen_en and B 3.0.0.1_Allgemeine Lieferbedingungen_de the original germane version B 3.0.0.1_Allgemeine Lieferbedingungen_de shall prevail.

1) General information, conclusion of contract

1.a) All agreements are based solely on the following terms and conditions, unless otherwise stipulated in a separate, written contract (order). In the event of a contractual provision to the contrary, the provisions of the contract (order) shall take precedence and shall be supplemented by the following terms and conditions.

1.b) General terms and conditions of the contractual partner shall not become part of the contract. They shall not be recognised even if we do not expressly object to them again after receipt or if the contractual partner repeatedly refers to the inclusion of its general terms and conditions in business transactions.

1.c) The documents belonging to our offers such as illustrations, drawings, weights and dimensions etc. are only approximate unless they are expressly designated as binding. We reserve the property rights and copyrights to cost estimates, drawings and other documents; they may not be made accessible to third parties. If the order is not placed, the documents must be returned immediately upon request.

1.d) The contract is concluded with our written order confirmation, at the latest, however, with the delivery by us. Subsidiary agreements and amendments to the contract must be made in writing.

2) General information, price and payment

2.a) Our prices are based on the offer. If no quotation is available, the prices shall be based on the price lists of Friootherm Deutschland GmbH valid on the day of delivery. For installation, customer service and repair services, the prices are based on the current installation, customer service and repair conditions. The prices are subject to VAT at the rate applicable on the date on which the tax liability arises.

2.b) The prices in the offer are only valid if the complete offer is ordered. Package offers only include the services explicitly listed in the offer. Fixed prices shall only apply until the contractually agreed end of the delivery/construction period. Insofar as changes to laws, standards, regulations, necessary authorisations etc. occur after conclusion of the contract, changes to the service, including changes to the delivery/construction period, shall be deemed to have been made. If changes to the service, including changed delivery times and delivery periods, occur after conclusion of the contract, the customer shall bear the costs incurred by us as a result.

2.c) In the absence of any special agreement, payment shall be made without any deduction to an account of Friootherm Deutschland GmbH, namely: 33% down payment after receipt of the order confirmation, 33% upon notification of readiness for dispatch of the main components, the remainder within one month after transfer of risk.

2.d) The prices do not include packaging and insurance costs. These will be invoiced separately by us. The prices are ex works. Dispatch shall be at the customer's expense ex works or ex warehouse. The mode of despatch is at our discretion.

If we have taken over the installation or assembly, the customer shall bear all necessary ancillary costs such as travelling expenses, costs for the transport of tools and personal luggage as well as allowances in addition to the agreed remuneration, unless otherwise agreed in writing.

2.e) Payments are to be made without any deductions within 8 calendar days of receipt of the invoice, at no cost to us. Payments shall be deemed to have been effected when we have unrestricted access to the contributions or when they have been credited to one of our accounts. Cheques and bills of exchange are not accepted.

2.f) The customer may only offset claims against us that are recognised or have been legally established. Offsetting must be notified eight calendar days prior to offsetting. The customer shall only be entitled to rights of retention insofar as they are based on the same contractual relationship and are recognised by us or have been legally established.

2.g) If the customer is in default of payment, we shall be entitled to charge default interest of 12%. The right to claim further damages caused by default remains unaffected.

2.h) Insofar as our claim for payment is jeopardised as a result of circumstances subsequently occurring at the customer which result in a significant deterioration in assets, we shall be entitled to declare it due and payable.

2.i) In the event of non-acceptance of the properly offered goods by the customer, its vicarious agents or authorised representatives, we shall be entitled to demand compensation for non-performance in the amount of 15% of the invoice amount. The assertion of further damages remains unaffected.

2.j) If the customer effectively cancels the contract, a lump sum of 20% of the invoice amount shall be paid to us as compensation for expenses. It is incumbent on the customer to prove that the damage is lower. We reserve the right to claim further damages.

2.k) In the event of breaches of duty by the customer, in particular in the event of default in payment, we shall be entitled to withdraw from the contract and take back the goods after expiry of a reasonable deadline set for the customer. The customer is obliged to surrender the goods. The statutory provisions on the dispensability of setting a deadline shall remain unaffected.

3) Delivery time, dispatch, transfer of risk

3.a) Our delivery obligation is subject to correct and timely delivery to us, unless we are also responsible for the incorrect or delayed delivery. Delivery dates and deadlines are binding as soon as they have been confirmed by us in writing. The dates and deadlines shall commence on the date of our order confirmation, but not before all details of the order have been fully clarified. Should the customer fail to fulfil its obligation to cooperate or ancillary obligations (obtaining approvals, releases, documents, etc.) in good time, our delivery dates and deadlines shall be extended accordingly. The same applies if the customer does not fulfil the agreed terms of payment. Furthermore, in the case of assembly, customer service and repair services, the delivery/service obligation shall not commence until all commercial and technical prerequisites for the performance of the service, in particular the advance services to be provided by the customer in accordance with clause 4.a and agreed advance payments have been made. Compliance with the delivery date is also subject to the condition that the service can be performed without hindrance.

3.b) The delivery deadline shall be deemed to have been met if the delivery item has left the factory or warehouse (obligation to deliver, obligation to despatch) or has been made available for collection (obligation to collect). Notification of readiness for dispatch shall be deemed sufficient for compliance with the delivery dates and deadlines if the goods cannot be dispatched on time through no fault of our own. Unless otherwise agreed, the place of fulfilment shall be our place of business in 88138 Weißenberg.

3.c) If transport by the intended route or to the intended place within the intended time is impossible through no fault of our own, we shall be entitled to deliver by another route or to another place. The additional costs incurred shall be borne by the customer. However, we

shall also be entitled to store the goods at our reasonable discretion, to take all measures deemed appropriate to preserve the goods and to invoice the goods as delivered if transport by other means requires disproportionate costs or other expenses or is impossible, or if delivery to another location is not possible. The same shall apply if goods notified as ready for despatch are not called or collected within 4 calendar days. The costs for these measures shall be borne by the customer. In the case of despatch by other means or to another location, the customer shall be given the opportunity to comment in advance.

3.d) The dates and deadlines shall be postponed or extended by a reasonable period in the event of unforeseen obstacles (operational disruption, industrial action, force majeure, official intervention, etc.) which we were unable to avert despite reasonable care, irrespective of whether they occurred at our premises or those of our subcontractors.

3.e) In justified exceptional cases, we reserve the right to make partial deliveries, taking into account the interests of the customer and after prior notification.

3.f) If we fall behind schedule and if we allow a reasonable grace period set for us under threat of cancellation to expire and if the customer is no longer interested in a corresponding service, the customer shall be entitled to cancel the contract. We shall only be liable for damage caused by delay due to wilful intent or gross negligence and only for direct or typical damage.

3.g) The risk shall pass to the customer when the goods are handed over to the forwarding agent or carrier, but at the latest when the goods are dispatched, even if partial deliveries are made or if we have assumed other services, e.g. shipping costs or delivery and installation. At the customer's request and expense, we shall insure the consignment against theft, burglary, transport, fire and water damage and other insurable risks.

3.h) If dispatch is delayed due to circumstances for which the customer is responsible, the risk shall pass to the customer from the day on which the goods are ready for dispatch. We are then entitled to store the goods in accordance with point 3.c.

3.i) In the event of transport damage, the customer must immediately arrange for a damage assessment and inform us of the result.

3.j) The forwarding agent and carrier shall only be determined by us.

3.k) If dispatch or delivery is delayed at the customer's request by more than 21 days after notification of readiness for dispatch, we may charge 0.2 % of the price of the delivery for each week or part thereof, but not more than a total of 5 %. We reserve the right to prove higher storage costs.

4) Installation and assembly

Unless otherwise agreed in writing, the following provisions shall apply to installation and assembly:

- 4.a)** The Purchaser shall, at his own expense and in good time, provide:
- all earthwork, foundation work, roofing, steel construction, building and other ancillary work, as well as the opening and closing of openings, slots, core drillings, inspection equipment in walls, ceilings and shafts, electrical, cabling and control services, unless they have been explicitly assigned to us, including the necessary skilled and unskilled labour, building materials and tools.
 - the equipment and materials required for assembly and commissioning, such as scaffolding, lifting gear and other devices, fuels and lubricants.
 - energy and water at the place of use, including connections, heating, lighting, drainage, on-site protection due to low temperatures especially during the winter season and heating.
 - sufficiently large, suitable, dry and lockable rooms at the installation site for the storage of machine parts, apparatus, materials, tools, etc. and adequate working and recreation rooms for the installation personnel, including sanitary facilities appropriate to the circumstances; in addition, the Purchaser shall take the same measures to protect the property of the Supplier and the installation personnel at the construction site as it would take to protect its own property.
 - Connection and development services as well as coordinated and approved planning documents as a basis for execution.
 - Expert opinions, authorisations, approvals, maintenance and operator services, taxes and duties.

If these services are not provided by the customer, we can provide these services at the customer's expense following a preceding feasibility study through Friootherm.

4.b) Prior to the start of the installation work, the customer must provide the necessary information on the location of concealed electricity, gas and water pipes or similar installations as well as the necessary structural data without being requested to do so.

4.c) Prior to the start of installation or assembly, the materials and objects required for the start of the work must be available at the installation or assembly site and all preparatory work must have progressed to such an extent that the installation or assembly can be started as agreed and carried out without interruption. Access routes and the installation or assembly site must be levelled and cleared.

4.d) If the installation, assembly or commissioning is delayed due to circumstances for which we or our vicarious agents are not responsible, the customer shall bear the reasonable costs for waiting time and any additional travelling required by the supplier or the assembly personnel.

4.e) The Buyer shall immediately confirm to us or our vicarious agent the duration of the working time of the assembly personnel and the completion of the installation, assembly or commissioning on a daily basis.

4.f) If we request acceptance of the delivery after completion, the customer must carry this out within 2 weeks, even if final adjustment has not yet taken place in the case of assembly, customer service and repair services. If this is not done, acceptance shall be deemed to have taken place. Acceptance shall also be deemed to have taken place if the delivery has been put into use after completion of an agreed test phase, if applicable.

5) Retention of title and lien

5.a) All goods delivered, also within the scope of customer service and repair orders, shall remain our property (goods subject to retention of title) until fulfilment of all claims, in particular also the respective balance claims to which we are entitled within the scope of the business relationship. The customer is obliged to adequately insure the reserved goods at his own expense against theft, breakage, fire and water damage.

5.b) 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, without obligating us. The treated and processed goods shall be deemed to be reserved goods within the meaning of point 5.a. If the reserved goods are processed, combined or mixed with other goods by the customer, we shall be entitled to co-ownership of the new item in the ratio of the invoice value of the reserved goods to the invoice value of the other goods used. If our ownership expires as a result of combining or mixing, the customer hereby assigns to us the ownership rights to which he is entitled to the new stock or item to the extent of the invoice value of the goods subject to retention of title and shall store them for us free of charge. Our co-ownership rights are deemed to be reserved goods within the meaning of point 5.a.

5.c) The customer may only sell the goods subject to retention of title in the ordinary course of business at his normal terms and conditions and as long as he is not in default, provided that

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the claims from the resale are transferred to us in accordance with 5.d to 5f. He is not authorised to dispose of the reserved goods in any other way.

5.d) The customer's claims arising from the resale of the reserved goods are hereby assigned to us. They shall serve as security to the same extent as the reserved goods. If the reserved goods are sold by the customer together with other goods not supplied by us, the claim arising from the resale shall be assigned to us in proportion to the invoice value of the other goods sold. In the case of the sale of goods in which we have co-ownership shares in accordance with 5.b, a part corresponding to our co-ownership shares shall be assigned to us.

5.e) The customer shall be entitled to collect claims from the resale unless we revoke the direct debit authorisation (e.g. in the event of deterioration in assets, default in payment). In the event of seizure, confiscation or other dispositions or interventions by third parties, the customer must inform us immediately in writing.

At our request, he is obliged to inform his customers immediately of the assignment to us and to provide us with the information and documents required for collection. Under no circumstances shall the customer be authorised to further assign the claims.

5.f) If the value of the existing securities exceeds the secured claims by more than 20 per cent in total, we shall be obliged to release securities of our choice at the request of the customer.

5.g) If the customer provides us with objects for processing, treatment or repair, we shall be entitled to a lien on these objects or the newly created objects in connection with the claims arising in connection with the provision of these objects. The right of lien shall only apply to other claims arising from the business relationship insofar as these are recognised or have been legally established.

6) Software

6.a) Subject to other written agreements, software programmes and associated documentation made available to the customer may only be used for the operation of the devices specified in advance and named to us in writing. The customer shall receive the non-exclusive, non-transferable right to use the software. He may not reproduce, modify or make programmes available to third parties without prior written consent. These provisions shall also apply to modified or supplemented programmes. In the event of a resale or transfer, the customer shall impose the obligation of this provision on the transferee. In the case of software, we only assume the obligation to create and maintain it to the best of our knowledge and belief. In particular, no promise is given with regard to the complete elimination of errors or usability for a specific purpose..

7) Acceptance

7.a) If acceptance has been agreed or if mandatory statutory provisions provide for acceptance, this shall only take place in the supplying plant or in our warehouse immediately after notification of readiness for acceptance. The personal acceptance costs shall be borne by the customer, the material acceptance costs shall be charged to him in accordance with the price list of the supplying plant or the costs actually incurred by us.

7.b) Should acceptance take place at locations other than those listed in point 7a at the request of the customer and after our approval, the customer shall bear the additional costs incurred by us as a result.

7.c) If, through no fault of our own, acceptance does not take place, does not take place on time or does not take place in full, we shall be entitled to dispatch the goods without acceptance or to store them at the expense and risk of the customer and to invoice them to him if the non-acceptance is due to a fault of the customer. The goods shall then be deemed to have been accepted.

8) Notice of defects, warranty, liability

8.a) We shall be liable for defects in our delivery or work performance, including the absence of expressly warranted characteristics, within the scope of the statutory warranty period, but for a maximum of 12 months after the transfer of risk in accordance with the following clauses:

8.b) The delivered goods must be inspected immediately after delivery or upon collection, examined immediately, as far as possible, and if a defect is found, notified to us immediately (max. 3 days) in writing. Defects that could not be discovered even with the most careful inspection upon delivery or collection must be reported to us in writing immediately after discovery, with immediate cessation of processing or use of the goods.

After the execution of an agreed or legally mandatory acceptance of the goods by the customer, the assertion of defects that were detectable at the time of acceptance due to the type of acceptance is excluded, unless the customer has reserved the right to assert defects specifically detected at the time of acceptance.

8.c) In the event of a justified, timely notice of defects, we shall take back the rejected goods and deliver defect-free goods in their place. However, we shall also be entitled to rectify the defect instead. If we fail three times to repair or replace the goods, the buyer may demand cancellation of the contract or a reduction in payment. Replaced parts shall become our property.

8.d) The warranty period for the replacement part and the repair is 3 months. However, it shall run at least until the expiry of the original warranty period for the goods. The period for liability for defects in the goods shall be extended by the duration of the operational interruptions caused by the repair work. Any improper modifications or repair work carried out by the customer or third parties without our prior authorisation shall invalidate any liability for the resulting consequences.

8.e) The customer must immediately give us the opportunity to convince ourselves of the defect, in particular to make the rejected goods or samples thereof available on request. Otherwise, all claims for defects shall lapse. If the notification of defects is unjustified, we shall be entitled to demand compensation from the customer for the expenses incurred by us. **8.f)** Friotherm Deutschland GmbH shall not assume any warranty for damage caused by the following reasons: unsuitable or improper use, faulty assembly or commissioning by the customer or third parties, natural wear and tear, faulty or negligent handling, unsuitable operating materials, substitute materials, defective construction work, unsuitable building ground, chemical, electrochemical, electronic or electrical influences, unless they are attributable to a fault on our part.

8.g) No warranty claims shall exist for the sale of declassified products or products of second choice, or for the sale of goods "as inspected". The same shall apply in the event of only insignificant deviations from the agreed or contractually stipulated quality.

8.h) Further claims of the customer against us, in particular a claim for compensation for damage that has not occurred to the delivery item itself, are excluded. This exclusion of liability shall not apply in the event of wilful intent or gross negligence. However, we shall only be liable for gross negligence on the part of non-executive employees if they breach a material contractual obligation. Compensation for pure financial loss, i.e. loss of production, reduction in production or loss of profit, is limited by the general principle of good faith, for example in cases of disproportion between the amount of the delivery price and the amount of damage.

Furthermore, the exclusion of liability shall not apply in cases in which liability for personal injury or property damage to privately used objects is assumed under the German Production Liability Act in the event of defects in the goods. It also does not apply in the absence of

properties that are expressly warranted if the purpose of the warranty was precisely to protect the customer against damage that did not occur to the goods themselves.

Overall, however, our liability is limited to the net order value, irrespective of the degree of fault and the damage incurred.

If a contractual penalty for delay and/or for failure to achieve guaranteed values has been agreed, our liability for the consequences of delay and/or failure to achieve the guaranteed values shall be limited to the agreed contractual penalty.

8.i) For essential third-party products, our liability shall be limited to the assignment of the liability claims to which we are entitled against the supplier of the third-party product.

9) Contract adjustment

9.a) If unforeseeable events have a considerable effect on the economic significance or the content of the delivery, the contract shall be adapted appropriately in good faith. If this is not economically justifiable, we shall have the right to withdraw from the contract. It is generally assumed that this is economically unreasonable for us if, after the occurrence of the event, the value of our performance exceeds or falls below the scope of the originally agreed performance content by 30%.

10) Place of jurisdiction for all contracts, applicable law, validity of the contract

10.a) The place of jurisdiction shall be 88131 Lindau, Germany, insofar as this can be permissibly agreed. This place of jurisdiction is also agreed in the event that the contractual partner moves his domicile or usual place of residence outside the area of application of the ZPO after conclusion of the contract or his domicile or usual place of residence is not known at the time the action is filed.

10.b) The law of the Federal Republic of Germany shall apply to all legal relationships between us and the contractual partner.

10.c) Should one or more provisions of this contract be void or contestable, the validity of the remaining provisions shall not be affected. In place of the legally invalid part, it shall then be deemed to have been agreed what comes closest to what the contracting parties would have agreed in a legally permissible manner if they had been aware of the invalidity. The same shall apply in the event that these provisions have a loophole.