GENERAL TERMS & CONDITIONS OF BUSINESS FOR DELIVERIES AND SERVICES of enviplan® Ingenieurgesellschaft mbH

I. Scope

These General Terms & Conditions of Business for Deliveries and Services apply exclusively in relation to businesspeople, legal persons under public law or special funds under public law within the meaning of Section 310 (1) of the German Civil Code (BGB) (Principal). They shall apply to all deliveries and services of enviplan® Ingenieurgesellschaft mbH (Agent), unless an agreement to the contrary is made expressly in writing. The general terms & conditions of the Principal shall not apply under any circumstances and shall not become part of the subject matter of the contract when an order is accepted.

II. Offer and conclusion of contract

1. The Agent's offers are subject to change and non-binding.
2. Documents that form part of the offer (e.g. technical documentation, illustrations, drawings, plans, calculations, references to DIN standards) and other product descriptions are also non-binding, unless expressly designated as binding.
3. Third parties may not be given access to any offer documents of the Agent, including extracts thereof. On demand, the documents must be returned to the Agent.
4. The contract shall come into effect only on issue of written confirmation of the contract or order. Until the Agent has confirmed the order in writing, the Agent's offer remains non-binding.
5. Errors in the Agent's offer or in the order confirmation, typographical errors or mistakes in calculations shall not give rise to entitlements or obligations for either the Principal or the Agent. The contract shall be effective only as it would have been without such errors or mistakes.

III. General

1. The language of the contract is German.
2. The performance details of the delivery items provided in analogue and digital marketing materials, brochures, advertisements, illustrations and similar are approximately accurate. They shall be binding only if the contract makes express reference to them.
3. Changes to the agreed scope of delivery and services and to the Terms & Conditions must be in writing. Materials delivered beyond the agreed scope of delivery shall remain the property of the Agent.
4. Installation (assembly) of the machines and systems shall be carried out under the Agent's conditions of assembly.
5. Built-in system parts are not deemed to be part of the building but are installed only for a temporary purpose. The prerequisites of Section 97 BGB are not fulfilled.
6. Insofar as single conditions of these General Terms & Conditions are ineffective, this does not affect the validity of the remaining regulations and the contract as such. To fill these loophole, those legally effective provisions shall be deemed to have been agreed which the contracting parties would have agreed according to the economic objectives of the contract and the purpose of these General Terms & Conditions had they been aware of the loophole.

IV. Price and payment conditions

1. The Agent's prices are understood to be in euros € plus VAT at the statutory rate on conclusion of contract.
2. Unless otherwise agreed separately, the purchase price is ex works without packaging.
3. The purchase price is due for payment immediately on the date of receipt of the invoice. In case of doubt, this is the 3rd day from the date of issue of the invoice.
4. Deduction of discounts is permitted only by specific written agreement.
5. The Agent is not obliged to accept bills of exchange. If, however, it does accept bills of exchange, the bank discount and collection fees shall be charged to the Principal in the event the claim becomes due, and these are payable immediately

in cash. Acceptances, bills of exchange and cheques are only ever accepted on account of payment. In the case of a deterioration in the creditworthiness of a party obligated under a bill of exchange, the Agent reserves the right to demand payment in exchange for return of the acceptances or bills of exchange.

6. Unless a fixed price agreement has been made, the right is reserved to make appropriate price alterations to reflect changes in wage, material and distribution costs for deliveries that are made three months or more after conclusion of contract.

7. The advance payments made by the Principal shall be offset against the delivery price; they do not constitute forfeit money, the relinquishment of which would justify dissolution of the contract.

8. If the Principal gets into difficulties with payment or is in default on payment, if bills of exchange go to protest or seizures are made of its assets, if there is a serious deterioration in its assets or other circumstances arise that suggest a significant deterioration in the solvency of the Principal after conclusion of contract, the Agent is entitled to demand payment of all claims under the ongoing business relationship with the Principal that are not yet due, to demand advance payments or adequate security or to refuse deliveries and services in accordance with statutory regulations, to withdraw from the contract if it has not yet been fulfilled and to demand cash payment for further deliveries.

9. If the invoice amount is not received by the Agent within 5 working days of reminder, the latter is entitled to charge default interest of 1% point above the applicable standard rate of the German Federal Bank from the due date. The Agent reserves the right to pursue further compensation for default.

V. Offsetting and rights of retention

Retention of payments for any of the Principal’s claims not recognised by the Agent is excluded, as is offsetting against any claims not recognised by the Agent.

VI. Delivery period

1. The delivery period is agreed individually or specified by the Agent on acceptance of the contract or order.
2. A delivery period is binding only if it has been expressly designated as binding by the Agent. Compliance therewith presupposes that all commercial and technical issues between the contracting parties have been clarified and the Principal has met all of the obligations it is under, such as timely provision of all documents and information required to make the delivery, in particular plans and drawings, official certificates or authorisations and any payments in advance. If this is not the case, the delivery time shall be extended.
3. In any case, delivery is expressly subject to correct and timely delivery to the Agent by its own suppliers.
4. The delivery time is deemed to have been met if the delivery item has left the Agent's premises or notification of readiness for shipment has been sent before expiry of the period.
5. If failure to comply with the delivery period is the result of circumstances for which the Agent is not responsible (force majeure, strikes, natural disasters or other events), the Principal is not entitled to compensation. The Agent shall notify the Principal of the delay in delivery promptly and simultaneously provide notification of the expected new delivery time. If the service is also unavailable within the new delivery period, the Agent is entitled to withdraw from the contract in whole or in part; any payment already made by the Principal shall be reimbursed immediately by the Agent.
6. The start of a delay in delivery shall be determined by the statutory regulations. In any case, however, a reminder from the Principal is required. If the Agent is in default on delivery, the Principal may demand flat-rate reimbursement of default damages. The flat-rate compensation is 0.5% of the net price (delivery value) for each complete calendar week of default, but up to a maximum of 5% of the delivery value of the goods delivered late. The Agent has the right to demonstrate that the Principal has not suffered any losses or only significantly lower losses than the above flat rate.
7. If the shipment is delayed for reasons for which the Principal is responsible or if the Principal does not accept the ordered goods at the contractually agreed time,

the costs relating to delivery shall still be met by the Principal. Storage of the goods that are not accepted is at the cost and risk of the Principal. Insurance is arranged only at the express request and cost of the Principal.

8. If the delay in acceptance is the result of circumstances for which the Principal is responsible, the Agent may request in writing that the Principal accept the delivery within an appropriate period. If the Principal does not comply with this request, the Agent may withdraw from the contract in relation to the goods that have not been accepted by means of simple written notification (without involving the courts) and then demand compensation from the Principal for the damages incurred as a result of non-fulfilment. The compensation is restricted to the value that arises from the contract relating to the item for delivery. If the above conditions are met, the risk of accidental destruction of or deterioration in the condition of the purchased item shall be transferred to the Principal at the time the Principal entered into default on acceptance or in debtor's default.

VII. Transfer of risk

1. The time of transfer of risk is based on the international rules for interpreting the terms of commercial contracts (Incoterms) in the version applicable on the date of conclusion of the contract. If the contract does not specify the type of sale, the delivery item is deemed to be sold EXW (ex works). This also applies to part deliveries.

2. In the case of sale EXW, the Agent shall notify the Principal in writing of the time at which the delivery must be collected ready for shipment.

VIII. Warranty

1. The Agent shall be liable for the quality of the material supplied, proper design and the absence of contractually guaranteed characteristics from the time at which the Principal is notified by the Agent in writing of readiness for shipment of the goods for a period of 12 months, such that, at its discretion, it may repair the defective parts or improve the service free of charge, deliver the item again or provide the service again.

The prerequisite for the liability of the Agent to take effect is the submission of a complaint in writing within 10 calendar days of identifying the defect. Replaced parts shall be the property of the Agent.

2. The Principal shall give the Agent the necessary time and opportunity to carry out all repairs and substitute deliveries that appear necessary to the Agent following notification; otherwise the Agent shall be exempt from liability for the resulting consequences.

3. Within the framework of the statutory regulations, the Principal has the right to withdraw from the contract if the Agent allows an appropriate period of grace for repair or substitute delivery because of a defect to pass without success, taking the statutory exceptions into account. If the defect is only minor, the Principal shall not be entitled to claim for the defect.

4. The Agent's liability for defects shall expire if the Principal makes changes, rectifications or repairs itself or arranges for third parties to do so without the prior written consent of the Agent.

5. The Agent does not provide any warranty for spare or wear parts. Defects and damage that result from wear, defective or negligent treatment, improper use, failure to comply with operating and handling instructions, excessive load, freezing, corrosion caused by chemical, electrical or electrolytic factors, incorrect assembly or commissioning by the Principal or third parties, improper maintenance, unsuitable operating equipment, unsuitable characteristics of media or the environment, or failure to comply with the agreed operating values are excluded from the warranty. This includes, in particular, exceeding contractually agreed inflow conditions/limit values for material flows.

6. For external products supplied by the Agent, the Agent shall be liable only to the extent to which its suppliers provide and fulfil a guarantee for its products. In this case, the Agent may exempt itself from the warranty obligations by assigning its claims against its suppliers to the Principal.

IX. Liability in other cases

1. Other claims by the Principal against the Agent and its vicarious agents are excluded, particularly claims for compensation for damage caused to property other than the delivery item itself. This does not apply in cases of malicious intent, gross negligence or the absence of guaranteed characteristics where liability is compulsory.
2. These provisions also apply accordingly to all other claims by the Principal, whatever the legal basis, in particular for culpability on conclusion of contract based on incorrect advice or for the breach of secondary contractual obligations.
3. Unless otherwise specified in these General Terms & Conditions including the following provisions, the Agent shall be liable in the event of a breach of contractual and extra-contractual obligations in accordance with the relevant statutory regulations.
4. The Agent shall be liable in cases of malicious intent and gross negligence, whatever the legal basis. In cases of simple negligence, it is liable only
   a) for damage caused by loss of life, physical injury or damage to health,
   b) for damage resulting from breach of a significant contractual obligation (obligation whereby the fulfilment thereof enables proper execution of the contract in the first place and on compliance with which the contracting partner regularly relies and may expect to rely); in this case, however, liability is restricted to compensation for foreseeable damage that typically occurs.
5. The restrictions on liability that arise from Para. 2 do not apply in cases where the Agent fraudulently conceals a defect or has provided a guarantee of the quality of the goods. The same applies to claims of the Principal under the German Product Liability Act.
6. The Principal may only withdraw or terminate for a breach of obligation that does not consist of a defect if the Agent is responsible for that breach of obligation. A free right of termination for the Principal (in particular pursuant to Sections 651, 649 BGB) is excluded. Otherwise the statutory conditions and legal consequences apply.

X. Expiry periods

1. By way of derogation from Section 438 (1) No. 3 BGB, the general expiry period for claims for material and legal defects is one year from delivery. If acceptance testing is agreed, the expiry period shall commence on acceptance.
2. The above expiry periods under purchase law also apply to contractual and extra-contractual compensation claims by the Principal that are based on a defect in the goods, unless the application of the standard statutory expiry period (Sections 195, 199 BGB) would lead to a shorter expiry period in individual cases. In any case, the expiry periods of the Product Liability Act shall remain unaffected. Otherwise only the statutory expiry periods apply to the Principal's compensation claims pursuant to Section 9.

XI. Retention of title

1. Transfer of title to the delivery item is carried out on the condition that the Principal has settled all claims arising from the business relationship with the Agent, in particular any current account balances.
2. The Principal is only entitled to resell the purchase item subject to retention of title in the context of its regular business operations. In this case, the following applies:
   a) The Principal shall disclose the existing retention of title of the Agent to the customer (so-called transferred retention of title).
   b) The Principal shall immediately assign all purchase price claims against the customer arising from the resale to the Agent.
   c) The amount of the assigned claim for the purchase price is determined as follows:
      ca) if the goods supplied by the Agent have been resold with other goods not belonging to it, it shall be in accordance with the value that the goods have at the time of delivery to the customer by the Principal, including the dealer's margin;
      cb) if the purchase item is resold following processing, in particular after processing with other goods that do not belong to the Agent, it shall be in accordance with the value of the purchase item at the time of processing. In the case of processing of goods that are subject to the Agent's retention

of title, the Agent's retention of title to the goods delivered by it shall be replaced by its retention of title to the new goods (so-called extended retention of title in the form of the processing clause). The same applies if the goods subject to the Agent's retention of title are resold after mixing with goods that do not belong to it.

d) The Principal is entitled to collect the claim assigned in advance to the Agent on behalf of the latter. The Agent has the right to revoke the authority to make such collection with immediate effect and to collect the claim itself. The Agent is also entitled to notify the Principal's customers of the assignment. On demand by the Agent, the Principal is obliged to provide the former with the names and addresses of its customers and the amount of the assigned claims, and to provide it with all the information required to assert the assigned claims.

e) The Principal is obliged to provide the Agent, on demand and at any time, with information about the whereabouts of the delivered purchase items subject to retention of title and about the claims arising from the sale of the goods.

5. On full payment of all claims of the Agent arising from the business relationship, both the title to the purchase item and the assigned claims shall be transferred to the Principal.

6. The Principal is further obliged to provide immediate written notification to the Agent of seizures and confiscation of the purchase item and/or of the assigned claim, or of any other claims that third parties assert in relation to the purchase item. In the case of seizures, a copy of the seizure report shall be sent to the Agent at the same time.

7. The costs incurred by asserting the rights of the Agent as a conditional seller shall be met by the Principal.

8. The Agent is entitled to insure the delivery item at the cost of the Principal against theft, breakage, fire, water and other damage, insofar as the Principal has not itself demonstrably taken out insurance.

9. Property rights and copyright to plans, technical documents, samples, cost estimates, drawings, etc., material and immaterial information, including in electronic form, shall remain exclusively with the Agent. Without the consent of the Agent,

the Principal may not use, copy or duplicate them, transfer them to or make them known to third parties.

10. In the case of conduct in breach of contract by the Principal, in particular default of payment, the Agent is entitled to withdraw from the contract and/or to take back the delivery item following a warning. The Principal is obliged to release the delivery item. Assertion of the retention of title and seizure of the delivery item by the Agent are not deemed to constitute withdrawal from the contract.
11. An application to instigate insolvency proceedings entitles the Agent to withdraw from the contract and demand immediate return of the delivery item.

XII. Subsequent changes

If the documents provided to the Agent by the Principal do not correspond to the actual circumstances or if the Agent is not notified of circumstances that would have made alternative materials or a different design necessary or is notified of such circumstances too late, the costs incurred for any necessary changes shall be met by the Principal.

XIII. Copyright and patent rights

With the acquisition of the purchase item, the Principal shall be granted unrestricted usage rights to the item purchased as required for its proper operation.

The procedure included in this offer and its individual components are protected by patent law and copyright. Passing these on to third parties without the written consent of the Agent or improper use thereof shall lead to compensation claims.

The plans, instructions, all of the expertise and all other documents provided shall remain the property of the Agent and may not be copied, used for reproduction purposes, passed on to third parties or otherwise made accessible without written consent.

XIV. Use of software

1. If software is included in the scope of delivery, the Principal is granted a non-exclusive right to use the software supplied, including its documentation. It is provided for use on the delivery item supplied for the purpose. Use of software on more than one system is prohibited. The Principal may duplicate, revise or translate the software or convert it from object code to source code only to the extent permitted by law (Sections 69 a et seq. German Copyright Act); in any case, it remains the property of the Agent.
2. The Principal undertakes not to remove manufacturer’s details, in particular copyright marks, or to change these without the prior express written consent of the Agent. All other rights to the software and documentation, including copies, shall remain with the Agent or the software supplier. Allocation of sub-licences is not permitted.

XV. Performance guarantees

1. Fundamentally the Agent shall provide guarantees of performance only if the water/waste water supply parameters have been described completely and clearly and provided by the Principal in writing by the time of conclusion of contract.
2. In the absence of sufficiently precise data, the Agent shall guarantee cleaning in accordance with the state of the art.

XVI. Place of fulfilment

The place of fulfilment is the registered office of enviplan® Ingenieurgesellschaft GmbH in 33165 Lichtenau.

XVII. Place of jurisdiction, applicable law

1. These General Terms & Conditions and the contractual relationship between the Agent and the Principal are governed by the law of the Federal Republic of Germany, except for international uniform law, in particular the UN Convention on the International Sale of Goods.
2. If the Principal is a merchant within the meaning of the German Commercial Code, a legal person under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes, including international disputes, arising directly or indirectly from the contractual relationship is the registered office of enviplan® Ingenieurgesellschaft GmbH in Lichtenau. The same applies if the Principal is an entrepreneur within the meaning of Section 14 German Civil Code. However, enviplan® Ingenieurgesellschaft GmbH is also entitled, in all cases, to take action at the place of fulfilment specified in an individual agreement that takes precedence or at the general place of jurisdiction of the Principal. This shall not affect precedent statutory regulations, in particular regarding exclusive jurisdiction.

As of 2024

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