

## **General Terms and Conditions of Weldplus GmbH**

### **I. Scope, conflicting general terms and conditions, written form, offers**

1. The following general terms and conditions apply to all deliveries and services of Weldplus GmbH (hereinafter referred to as WP). These conditions apply exclusively. General terms and conditions of the customer that conflict with or deviate from these terms and conditions will not be recognized unless WP has expressly agreed to their validity in individual cases.
2. Orders, declarations of acceptance and order confirmations as well as all agreements made before or upon conclusion of the contract must be in writing to be effective. Sub contractual agreements should also be made in writing.
3. Unless otherwise stated or agreed, offers from WP are subject to change; In this case, a contract is only concluded with a written confirmation of the order received by WP, however, at the latest, to the extent that it deviates from section I. 2 sentence 1, by acceptance of the delivery.

### **II. Prices**

Unless expressly agreed otherwise, the prices are packed ex works of the manufacturer plus transport costs and plus any applicable VAT at the statutory rate.

III. Terms of payment, offsetting, right of retention, the contractual partner's obligation to make advance payments, deterioration in assets

1. Unless otherwise agreed, invoices for deliveries of goods and other services are payable without deduction immediately after the invoice date.
2. If the customer is in arrears with the payment, a flat rate fee is due. In addition, WP reserves the right to charge default interest
3. The customer can only offset claims that are undisputed, ready for decision or legally binding. He can only exercise a right of retention if it is based on undisputed, ready for decision or legally established claims from the same contractual relationship.
4. WP is entitled to make deliveries only against prepayment or cash on delivery.
5. If it becomes apparent after the conclusion of the contract that WP's claim to the consideration is jeopardized by the customer's inefficiency, WP can refuse the service which is incumbent on it until the customer has performed the consideration or has provided security for it. WP can set a reasonable period of time within which the customer has to effect the consideration or provide security against the service of his choice. After the deadline, WP is entitled to withdraw from the contract and / or to demand compensation for damages or expenses if the legal requirements are met.

### **IV. Delivery, delivery times / dates, delay in delivery, force majeure, partial deliveries**

1. The delivery dates and delivery times specified in the order confirmation from WP are non-binding, unless otherwise agreed. The order confirmations from WP are decisive for the scope of the deliveries.
2. Compliance with binding or non-binding delivery periods or delivery dates requires the timely receipt of all documents, permits and releases to be supplied by the customer as well as compliance with the agreed terms of payment and other obligations.
3. In the event of non-delivery or late delivery, WP will not be in default towards the customer, as long as WP is not responsible for the non-delivery or late delivery. If it is certain that the ordered goods will not be delivered for reasons for which WP is not responsible, WP is entitled to withdraw from the contract.
4. In addition to delivery, the customer can demand compensation for the damage caused by delay if WP is guilty of intent or gross negligence. In the event of slight negligence, WP's liability is limited to foreseeable, contract-typical damage. Section VIII. 3 remains unaffected.

Delays in delivery due to force majeure and other obstacles occurring at WP or its suppliers, e.g. B. Disruptions in self-supply, lawful strikes / lockouts, operational disruptions, etc., which temporarily prevent WP from delivering the purchased item on the binding or non-binding agreed date or within the agreed deadline through no fault of our own or attributable, extend these dates and deadlines the duration of the service disruptions caused by these circumstances. If a corresponding malfunction leads to a delay in performance of more than six months, the customer can withdraw from the contract. If delivery and performance become permanently impossible or unreasonable due to such a disruption, WP is finally released from its obligation to perform. Possibly. statutory rights of withdrawal remain unaffected.

6. Partial deliveries are permissible to a reasonable extent for the customer and can be billed independently.

#### **V. Place of performance, transfer of risk**

1. Unless otherwise agreed, the place of performance for delivery and payment obligations from the contractual relationship is the registered office of WP. Subject to a different agreement, shipping takes place from the registered office or from the delivery warehouse of WP at the customer's risk; the risk passes to the customer as soon as the shipment has been handed over to the person carrying out the transport or has left WP's warehouse for the purpose of shipment. If the customer does not accept the goods in time, even though they have been offered them, the risk passes to the customer upon notification that the goods are ready for dispatch.

#### **VI. Retention of title**

1. The delivered goods remain the property of WP until the full fulfilment of all claims from the contractual relationship and other claims that WP subsequently acquires against the customer in direct connection with the goods, regardless of the legal reason. This also applies if the payments were made on specially designated claims.

2. Furthermore, the goods remain the property of WP until the fulfilment of all other claims which WP acquires against the customer for whatever legal reason now or in the future (including all balance claims from current account). With the current invoice, the reserved goods serve to secure the balance claims of WP.

3. The customer is entitled to resell the reserved goods in the ordinary course of business. To secure all outstanding claims, he now assigns the claim arising from the resale against his customer to WP. This accepts the assignment. As long as WP is still the owner of the reserved goods, it is entitled to revoke the authorization to resell if there is a factually justified reason.

4. The customer is irrevocably authorized to collect the assigned claim. WP may revoke the direct debit authorization if there is a factually justified reason. WP's authority to collect the claims itself remains unaffected by this, however, it undertakes not to collect the claims as long as the customer properly fulfils his payment obligations.

5. If the customer does not meet his payment obligations properly and WP is therefore authorized to collect the claims himself, the customer is obliged to notify WP of the assigned claims and their debtors on request, to provide the information required for collection and to hand over the associated documents as well to inform the debtors of the assignment.

6. As long as the retention of title exists, pledging, transfer by way of security, leasing or any other transfer or change in the goods subject to retention that affects the security of WP require the prior

written consent of WP. The customer's right to resell the goods in the ordinary course of business under the aforementioned conditions remains unaffected.

7. In the event of access by third parties, e.g. B. in the case of seizure of the goods subject to retention of title, the customer must inform WP immediately in writing and immediately notify the third party of WP's retention of title.

8. If the customer not only temporarily suspends his payments, if he applies for insolvency proceedings to be opened against his assets or if insolvency proceedings are opened for his assets, he is obliged to surrender the goods subject to retention of title upon request by WP. In addition, the customer is obliged to return the goods subject to retention of title to WP in the event of behaviour contrary to the contract, in particular in the event of late payment. In these cases, the customer is also obliged to immediately send WP a list of the remaining reserved goods, including those that have been processed, along with a list of claims against third-party debtors.

9. The withdrawal of the goods subject to retention of title by WP only represents a withdrawal from the contract if this is expressly stated in writing. WP is entitled to set and threaten the customer in writing with a reasonable deadline for the fulfilment of its liabilities, that if the performance is not met in time, the acceptance of the service will be refused and the reserved goods seized will be used against the purchase price, taking into account any payment received. If the liabilities are not met, WP can sell the goods privately. In this case, the customer has to bear the utilization costs. This regulation does not affect other statutory rights of WP.

10. The customer is obliged to adequately insure the reserved goods and to keep them under insurance protection. The customer hereby assigns the claims against his insurer in the event of a claim, insofar as they relate to the ownership or co-ownership of WP. WP accepts this assignment.

11. At the customer's request, WP is obliged to waive the retention of title or to release collateral from assignments by way of security and advance assignments if the customer has fulfilled all claims related to the object of purchase or if the realizable value from the entire WP provided collateral from retention of title, transfer by way of security and assignment in advance exceeds the total amount of the claims against the customer by more than 10%.

**VII. Liability for defects, technical changes, inspection and notice period, limitation of defects The liability for defects is based on the law, modified by the following regulations:**

1. Technical data in advertising documents, documentation and offers are subject to technical change. Unless otherwise agreed, such data do not constitute quality guarantees. WP reserves the right to make technical changes, size and colour deviations as long as these changes are reasonable for the customer, taking into account his interests. Claims due to the absence of a condition guaranteed before or at the conclusion of the contract can only be asserted if and insofar as a certain condition was expressly guaranteed in writing.

2. The customer must examine the goods immediately upon receipt. Identifiable defects must be reported in writing immediately, but no later than 14 days after receipt of the goods. Hidden defects in the goods must be reported in writing immediately, but no later than 14 days after their discovery.

3. In the event of interventions or changes to the delivered goods by the customer or by third parties, the use of unauthorized accessories and unauthorized spare parts as well as improper storage, use or maintenance of the delivered goods, all claims for defects are void, unless the customer can prove that a possible Deficiency is not causally attributable to such measures.

4. Insofar as the goods have been delivered in the used condition in accordance with the contract, any liability for defects, damage claims acc. Section VIII. 1. and Section VIII. 3. remain unaffected. Liability for normal wear and tear is excluded.

5. If the customer shows a defect in good time according to Section VII. 2., he has the right, at WP's option, to remedy the defect free of charge or to deliver a defect-free item (supplementary performance); the place of performance for supplementary performance is at the headquarters of WP. The costs incurred for the rectification of defects on site, e.g. Installation and expansion costs, travel and ancillary costs are invoiced based on the actual effort. WP can refuse the supplementary performance as a whole if both the rectification of the defect and the delivery of a defect-free item are only possible with disproportionate costs.

6. The defective goods are returned to WP for the purpose of subsequent performance at the customer's risk. The customer bears the costs incurred in connection with the return delivery of the defective goods (transport costs, customs, etc.). If WP delivers a replacement item for the purpose of subsequent performance, the customer must send the originally delivered goods back immediately after being requested to do so by WP. Replaced parts become the property of WP.

7. Does the supplementary performance according to Paragraph VII. 5. is wrong, the customer can either withdraw from the contract or reduce the remuneration. This also applies if the supplementary performance is unreasonably delayed, unjustifiably refused or impossible or is unreasonable for the customer.

8. Claims for defects do not exist for defects that arise after the transfer of risk as a result of incorrect or negligent handling (e.g. incorrect assembly or commissioning by the customer, excessive use, defective construction work and special external influences that are not required by the contract).

9. Subject to Section VIII. 1. and Section VIII. 3., the warranty period for defects is 12 months from the date of delivery in the case of purchase contracts and 12 months from the day of acceptance in the case of work contracts.

10. Insofar as there are manufacturer guarantees for goods delivered by WP, the claims from such guarantees are directed exclusively against the respective guarantor in accordance with the respective guarantee provisions. Claims against WP are not justified by guarantees from third parties not granted by WP.

11. The customer is only entitled to compensation claims due to defects, insofar as WP's liability is not excluded or limited in accordance with Section VIII. Of these conditions. Further claims or claims other than those regulated in this section VII. Due to a defect are excluded.

### **VIII. Liability, limitation period**

1. WP is fully liable for intent and gross negligence.

2. In the event of a slightly negligent breach of a main performance obligation or an ancillary obligation, the violation of which jeopardizes the achievement of the purpose of the contract or the fulfillment of which makes the proper execution of the contract possible in the first place and on the observance of which the customer could rely ("essential ancillary obligation") is liability limited to foreseeable, contract-typical damage at the time of conclusion of the contract, but not more than EUR 500,000 for property damage and EUR 250,000 for financial loss. WP is not liable for slightly negligent violation of ancillary obligations that are not essential.

3. Liability in the event of fraudulent concealment of defects or acceptance of a quality guarantee and liability for claims based on the Product Liability Act and for injury to life, limb and health remain

unaffected by Section VIII. 2 above. This does not imply a change in the burden of proof to the detriment of the customer.

4. Claims for damages, for which liability is excluded or limited in accordance with this Section VIII., Become statute-barred, with the exception of claims from tortious acts, in two years, calculated from the receipt of the goods by the customer.

#### **IX. Right to use software**

1. WP grants the customer the unlimited or contractually limited, non-exclusive right to use the contractual software for the respective contractual purposes once the agreed remuneration has been paid. Subject to other agreements between the parties, this only includes the installation, loading and running of the software as well as the making of any necessary backup copies. Sublicensing is prohibited. The transfer of the software to third parties is not permitted.

2. The customer's right to use the software expires without an explanation being required if the customer violates one of the provisions in Section IX. 1 violates.

3. Insofar as this is not expressly permitted by law (§§ 69d, 69 eUrhG), the customer is prohibited from editing, decompiling or developing the software (reverse engineering).

#### **X. Cost of reading log files and installing software updates**

1. If the customer does not allow online access via the WP Remote Service, the costs incurred for reading the log files on site, e.g. B. labour costs and travel and incidental costs, billed according to actual effort.

2. For required software updates that cannot be carried out as part of the recommended annual maintenance at the installation site or online via the WP Remote Service, the costs incurred for installing or starting the update at the installation site will be charged from the day of commissioning , e.g. B. Labour costs, travel and ancillary costs, invoiced by WP based on actual effort.

#### **XI. confidentiality**

1. The parties undertake to treat confidential information confidentially and to use it only for contractually agreed purposes.

2. Confidential information within the meaning of the regulation in Section XI. 1 are all offers and order confirmations from WP as well as all information, documents and data which are designated as confidential or which by their nature are to be regarded as confidential. The term confidential information does not include information that (1) was already evident at the time it became known, i.e. are readily accessible to any third party or will become so, (2) one of the parties has been or will be lawfully made accessible by a third party who is not subject to any confidentiality obligation towards the other party; or (3) was already lawfully in their possession without a duty of confidentiality before it was received by the disclosing party. The existence of one of the above exceptions must be proven by the party that relies on it.

#### **XII. Disposal of the delivered goods**

1. The customer is obliged to properly dispose of the delivered goods after the end of use at his own expense in accordance with the statutory provisions. Insofar, WP is freed from the obligations according to § 10 paragraph 2 ElektroG (take-back obligation of the manufacturer) and related claims of third parties.

2. In the event that the goods delivered by WP are resold in the course of business, the customer must take appropriate contractual measures to ensure that either the customer's customer takes

care of proper disposal in accordance with the statutory provisions after the end of use or that the customer himself or his customer towards proper disposal.

3. If a third party asserts a claim for disposal of the delivered goods against WP after the end of use, the customer must properly dispose of the goods and indemnify WP from all third-party claims in connection with the obligations in accordance with Section 10 (2) ElektroG.

4. WP's claim against the customer to assume the obligation to dispose of the goods or to be released from the obligations under Section 10 (2) ElektroG does not expire one year after the end of use and WP's knowledge of the end of use.

### **XIII. Applicable law, place of jurisdiction, partial invalidity**

1. German law applies exclusively between WP and the customer. The UN sales law is expressly excluded.

2. Insofar as the customer is a merchant, a legal entity under public law or a special fund under public law or is not based in Germany, the headquarters of WP is agreed as the exclusive place of jurisdiction for all legal disputes arising from or in connection with this contract. However, WP is also entitled to sue the customer at his general place of jurisdiction.

3. If a provision of these terms and conditions is inadmissible, this does not affect the effectiveness of the other regulations.

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