



## General Terms and Conditions of Sale and Delivery LS Energy GmbH

### I. General

1. These General Terms and Conditions of Sale and Delivery apply to all contracts concluded between LS and customers who are an entrepreneur, a legal entity under public law or a special fund under public law. They also apply to all goods and services supplied by LS in the future, even if not separately agreed again.

2. Any terms and conditions of the Purchaser which differ from the terms and conditions herein shall not form part of the contract, even if LS does not expressly object to any reference to such terms and conditions. Even if LS makes reference to a written document which contains or makes reference to the terms and conditions of the Purchaser, this shall not constitute any agreement as to the validity of such terms and conditions.

3. The Purchaser hereby irrevocably recognises the property rights and copyrights of LS on the basis of all samples, cost estimates, quotes, drawings and other information in physical or electronic form. The Purchaser undertakes to treat all documents received from LS from and in connection with each project as strictly confidential and only to disclose these to third parties with the consent of LS.

### II. Price and payment

1. All prices apply ex works Bielefeld in the absence of separate individual contracts. Where LS quotes "net", VAT must be paid in addition at the applicable statutory rate.

2. Where no separate arrangements have been made by the parties in text or written form in the individual contract, the following payment terms shall apply:

- receipt of 50 % of payment due within eight days of the Purchaser accepting the order

- receipt of 50 % of payment due 14 days prior to loading ex works Bielefeld, no later than 30 days following notification that the goods are ready for shipment, according to the priority principle.

3. The Purchaser shall only be entitled to offset any counterclaims where these counter-claims are undisputed, recognised or legally binding.

### III. Delivery time, delivery delays

1. The delivery date shall be stated in the final order confirmation issued by LS. This order confirmation may only be sent if all the documents, information, permits, approvals, guarantees etc. to be provided by the Purchaser have been received in full by LS.

2. In any case of force majeure (strikes, natural disasters, pandemics etc.), delivery deadlines shall be suspended and automatically extended accordingly where the unforeseen impediments are outside the control of LS. LS shall inform the Purchaser of this appropriately.

3. If LS has indicated that goods are ready for shipment and wishes to deliver, but cannot do so for reasons attributable to the Purchaser, LS shall be entitled to charge 0.2 % of the net order value per week in storage costs from the day on which the readiness for shipment was notified. A flat fee of 1.5 % of the net order value shall be charged for a (one-time) relocation of the object of the contract. LS shall be entitled, but not obliged, to store objects of the contract at a charge.

4. If the Purchaser delays the acceptance of the objects of the contract, LS shall be entitled to set a deadline for the acceptance of the objects of the contract four weeks after the readiness for shipment was notified. If the Purchaser still does not meet this (extended) deadline, LS shall be entitled, but not obliged, to use the objects of the contract elsewhere. Where LS incurs financial losses (lower purchase price, conversion costs etc.) as a result, the Purchaser must bear these costs.

5. If the Purchaser delays the acceptance of the objects of the contract by more than eight weeks despite the extended grace period, LS shall be entitled to withdraw from the contract and claim damages on the grounds of non-performance. The damages shall amount to 25 % of the total net price. LS reserves the right to prove higher damages, which the Purchaser shall then

be required to pay. The Purchaser reserves the right to prove lower damages and shall then only be obliged to pay the lower damages.

6. As a gesture of goodwill and without acknowledging any legal obligation, LS grants the Purchaser the right to cancel the contract subject to the payment of cancellation costs in accordance with the following scale:

- a) Up to 31 days from the conclusion of the contract/order confirmation 10 %

- b) from the 31st to the 60th day from the conclusion of the contract/order confirmation 30 %

- c) from the 61st day to the 90th day from the conclusion of the contract/order confirmation 50 %

- d) from the 91st day from the conclusion of the contract/order confirmation to the date of notification of readiness for shipment 80 %

The right of cancellation is subject to the Purchaser paying the cancellation costs within 15 calendar days after the request to cancel is expressed. Only once LS has received the cancellation costs in full and without dispute shall LS confirm the cancellation in writing.

7. LS is entitled to change the design or form of the object of the contract, as long as this does not cause any technical disadvantage to the Purchaser and this is reasonable for the Purchaser.

8. Where the Purchaser does not collect the objects of the contract or have these collected from LS ex works, but LS is obliged to deliver these or have them delivered by a third party, the following shall apply: The Purchaser must ensure that LS can properly deliver the objects of the contract at the destination (unrestricted access for trucks with load carriers at any time). The details shall be arranged in the individual contract.

### IV. Delivery and transfer of risk

1. Unless otherwise agreed, all services are performed by LS ex works. Goods are shipped at the cost and risk of the Purchaser, unless otherwise agreed. The risk of accidental loss or destruction shall also pass ex works LS, Bielefeld, Germany.

2. If the acceptance/collection of the object of purchase is delayed, paragraph III of Section 4 of these terms and conditions shall apply.

3. Partial deliveries by LS are permitted where this is reasonable for the Purchaser.

4. LS must package the objects of the contract adequately and securely. The Purchaser (or his forwarder) assumes all risks from departure from the factory in Bielefeld.

5. If LS is required to supply further services apart from the delivery of the objects of the contract (assembly etc.), the relevant provisions of the individual contract shall apply.

### V. Retention of title

1. All objects of the contract shall remain the property of LS until the settlement of all of LS's claims by the Purchaser. The retention of title shall also remain effective for all claims made by LS against the Purchaser in relation to the object of purchase, for example due to repairs, deliveries of spare parts or other services.

2. Any development or processing of the object of purchase subject to the retention of title, and any incorporation with external items by the Purchaser or third parties shall be carried out for LS (proportionately where applicable). LS shall be entitled to co-ownership of the newly produced item in proportion to the value of the object of purchase.

3. The Purchaser is entitled to use objects of the contract within the scope of its ordinary business operations. A resale shall only be permitted if the purchase price has been paid to LS in full or LS has consented to the resale in writing prior to full payment. In this case, the Purchaser hereby renounces its claims from the resale of the objects of the contract to LS as collateral. LS has the authority to collect the amount owed. LS reserves the right of notification and assignment and to collect the amount owed. LS undertakes to release the guarantees it is entitled to when the invoice amount for the retained goods exceeds the claims to



be secured by more than 20 % insofar as these have not been settled.

4. In the event of any serious violations of the contract by the Purchaser despite prior written warning, particularly in the case of payment defaults, LS shall be entitled to withdraw from the contract and to claim the return of the objects of the contract. In this case, LS shall be entitled, following written notification giving a reasonable period, to use the object of purchase as best as possible through sale on the open market deducting the proceeds of the sale from the purchase price.

5. In the event of intervention or claims asserted by third parties, in particular seizure of the object of purchase, the Purchaser must inform LS in writing without undue delay and notify the third parties without undue delay of the retention of title on the part of LS. A copy of this letter must be forwarded to LS. The Purchaser shall bear all the costs that are incurred in order to remedy the intervention and to reclaim the objects of the contract, and exempts LS from any costs in this respect.

6. The Purchaser must maintain the objects of the contract in proper condition during the period of retention of title, and perform or arrange the performance without undue delay of all the maintenance work foreseen by LS and necessary repairs, and where third parties are used, the Purchaser must only commission qualified firms with such work. The Purchaser must provide LS with comprehensive information on these measures and provide copies of order confirmations, invoices, time sheets and material lists in full and without undue delay.

7. For the period of retention of title, LS shall also be entitled to inspect the objects of the contract or appoint a third party (experts, TÜV etc.) to inspect them at any time, subject to reasonable prior notice. In these cases, LS shall also be entitled to test the system in operation, record performance levels, etc.

#### VI. Insolvency of the Purchaser

1. If the Purchaser files for insolvency (including self-regulation, insolvency protection proceedings [Schutzschirmverfahren] or similar) before the purchase price has been paid in full to LS, LS shall be entitled, but not obliged, to withdraw from the contract or terminate the contract (or contracts, where there are multiple goods and services).

2. If insolvency proceedings are initiated in relation to the assets of the Purchaser, LS shall handle the correspondence between the Purchaser and the insolvency administrator. LS shall not have the right to terminate the contract or withdraw from the contract if the insolvency administrator declares that they will fulfil the contractual obligations under existing contracts for the Purchaser.

3. If the insolvency proceedings in relation to the assets of the Purchaser are rejected due to a lack of assets, LS shall be entitled to use the objects of the contract as best as possible, settle any claims against LS and distribute any surplus proceeds to the Purchaser.

#### VII. Warranty

1. The warranty period for objects of purchase is twelve months from the transfer of risk unless otherwise agreed in each individual contract. All rights of LS under Section 377 of the German Commercial Code remain unaffected. The warranty shall begin upon the transfer of risk. The risk shall be transferred when the objects of the contract depart ex works (Bielefeld, Germany). If the Purchaser does not accept the object of the contract for reasons within the Purchaser's control, the warranty period shall begin once readiness for shipment is notified, whichever occurs first (priority principle).

2. The Purchaser must report any material defect to LS in electronic or written form without undue delay. The Purchaser must regularly inspect the objects of the contract and comply with all maintenance and repair requirements pursuant to the contractual documents. If the Purchaser does not report a material defect without undue delay following its discovery, the Purchaser must bear any additional costs resulting from the delayed reporting.

3. LS shall accept no liability for damage that occurs due to improper or negligent handling of the object of the contract, nor for attachments, accessories and spare parts not purchased from LS etc. LS shall only be liable for objects of the contract supplied by LS.

4. LS shall not be liable for damage to the object of the contract that occurs as a result of normal wear, corrosion or erosion, or as a result of not completing the specified servicing and maintenance work.

5. In the event of an immediate and justified claim against LS by the Purchaser for defects under warranty within the warranty period, LS shall bear the costs. Replaced parts shall become the property of LS.

6. The Purchaser must give LS reasonable time in which to perform any warranty work, whereby the procurement times for any spare parts must also be taken into account. The Purchaser must also grant LS unrestricted access (24/7 and subject to prior notice) to the plant and provide electricity, water, equipment and operating facilities as well as assistants.

7. It is expressly stated that LS is not obliged to rectify a defect if

- a) the Purchaser does not notify LS of the defect without undue delay in electronic or written form,
- b) the Purchaser has made modifications to the plant that have not been approved by LS, or installed additional parts or devices that affect the running of the plant.
- c) parts have been fitted in the plant by the Purchaser or by a third party on the instruction of the Purchaser, the use of which have not been approved by LS,
- d) the Purchaser has not followed the specifications and technical instructions provided on how to handle, maintain and care for the objects of the contract,
- e) the Purchaser has not undertaken the regular oil and gas analyses, which must be copied to LS.

#### VIII. Data protection and use of data

1. Machine data are recorded and processed using appropriate IT programs to ensure performance. The Purchaser hereby gives his irrevocable consent to LS storing, processing and evaluating these data. Such evaluation is performed regularly both for product improvement and for fault prevention, as well as for planned performance upgrades of the objects of the contract. Combined heat and power plants are technically complex units which must be closely monitored on a constant basis in order to enable a high level of efficiency.

2. Machine data are data automatically generated by a plant about its status ("status data"), functional processes, operation and all other internal operations of the machine ("production data"), which are logged in file format and digitally processed, stored and automatically transferred to LS. The system solutions developed by LS provide the required insight into the current machine status and enable analysis of the machine-generated parameters, so that LS can schedule its service effectively. Both the Purchaser and LS are entitled to the data and data processing processes. LS has set up its own platform for these data (my.2-g.com), where these data are archived.

3. LS shall provide the Purchaser with the module control system including display and the associated software for the duration of the contract and for the duration of any service contracts. The Purchaser acknowledges that LS has full disposal of all intellectual property rights and copyrights and that these rights also remain with LS. The Purchaser may not grant any third party any right to use the software or allow third parties to use the software without the prior written consent of LS.

4. If the Purchaser determines that the recording of machine data does not function or does not function correctly, the Purchaser must inform LS in electronic or written form without undue delay.

5. The company LS Energy GmbH, Hebriden Strasse. 31, 33729 Bielefeld, Germany is the controller as defined by data protection law. The personal data of the Purchaser shall be collected and stored by LS where this is necessary for the performance of the



contract. LS complies with the provisions of the General Data Protection Regulation.

6. Where LS appoints a service provider (known as a processor) within the scope of its obligations to fulfil the contract, LS is entitled to transfer the Purchaser's data to this service provider. LS is responsible for ensuring that such third parties also comply with the provisions of the General Data Protection Regulation.

7. Pursuant to Article 15 GDPR, the Purchaser has a right of access to the personal data stored by LS at any time. Subject to the conditions of Articles 16 and 17 GDPR, the Purchaser also has the right to rectification and erasure of the data, and pursuant to Article 18 GDPR, the right to request restricted processing. The restriction of data processing may mean that LS is unable to perform the contract in full. Personal data shall only be stored for as long as is necessary for the fulfilment of the respective purpose. This is generally for the duration of the contract or the statutory retention obligations.

#### IX. Liability

1. LS is liable for defects under the warranty pursuant to Section VII above.

2. For damages not occurring on the object of delivery itself, LS shall be liable to the full extent

- in case of intent or gross negligence by LS and for any culpable injury to life, limb or health,

- and in case of any claims under the Product Liability Act.

3. In the event of culpable breach of fundamental contractual obligations, LS shall also be liable for the gross negligence of non-management personnel. Liability for minor negligence shall be limited to damages reasonably to be expected for this type of contract.

4. Any further liability on the part of LS towards the Purchaser is excluded.

#### X. Dual-use clause

1. LS shall only be obliged to deliver to the Purchaser if the delivery and/or use of the object of the contract does not violate the export control laws of Germany, the European Union or the United States. LS shall be exempted from all deliveries in the event that export control laws are violated. The Purchaser shall not be entitled to any claims as a result of this.

2. The Purchaser irrevocably undertakes to comply with Council Regulation (EC) No 428/2009 of 5 May 2009 (Dual-Use Regulation). Without being requested to do so and at the time of contract negotiations, the Purchaser shall inform LS if dual-use items (which can be used for both civil and military purposes) are to become part of the contract ("dual-use" as defined by [www.zoll.de](http://www.zoll.de)).

#### XI. Changes to statutory provisions after conclusion of the contract

1. If new legal provisions, requirements, additional provisions etc. (for example, emission limits, safety requirements etc.) come into effect between LS and the Purchaser after the conclusion of the contract, these shall not be included in the quoted price. The parties must then begin negotiations without undue delay on how to handle the new provisions and on what the economic implications are.

2. The same applies where new statutory regulations, ordinances or technical specifications are adopted, which concern the operation or acceptance of the object of the contract.

#### XII. Applicable law and place of jurisdiction

1. The contractual relationship shall be exclusively governed by German law with the exception of the UN Convention on Contracts for the International Sale of Goods.

2. The sole place of jurisdiction shall be where LS has its registered office, i.e. either Ahaus District Court or Münster Regional Court depending on the amount involved.

#### XIII. Final provisions

1. All individual contract provisions of the parties shall apply by priority, where these are set forth in electronic or written form.

2. Additional verbal agreements and subsequent amendments shall only be valid if confirmed by LS in writing or electronic form.

3. If any of the preceding provisions are or become invalid, this shall not affect the validity of the remaining provisions.

4. The General Terms and Conditions of Sale and Delivery of LS can be viewed on the internet at [http://ls-energy.de/wp-content/uploads/GTC\\_AGB\\_2021.pdf](http://ls-energy.de/wp-content/uploads/GTC_AGB_2021.pdf). At the request of the Purchaser, LS shall also send the General Terms and Conditions of Sale in writing at any time.