

General Terms and Conditions of ORTNER ENERGY GROUP GmbH

(Status: June 2022)

1. General

1.1 The following general terms and conditions apply to the entire business relationship between our company and our business partners for all deliveries, services and offers.

1.2 All deliveries, services and offers from ORTNER ENERGY GROUP are based exclusively on these General Terms and Conditions. These are part of all contracts that ORTNER ENERGY GROUP concludes with its contractual partners (hereinafter also referred to as "customers") for the deliveries and services offered by ORTNER ENERGY GROUP. They are agreed with the customer when the first order is placed and apply to all future orders even if their validity has not been expressly pointed out again.

1.3 The General Terms and Conditions apply exclusively; any deviating conditions of the customer are excluded if ORTNER ENERGY GROUP does not expressly confirm their validity in writing. This also applies if the delivery is carried out without reservation in the knowledge of any deviating conditions of the customer.

2. Offer, cost estimate, subject of the contract

2.1 All offers, oral or written, are always non-binding and to be understood as non-binding cost estimates unless they are expressly marked as binding or contain a specific acceptance period. A signed cost estimate returned to us is to be regarded as an offer to conclude the contract.

2.2 Orders and orders only become legally binding if they are accepted within a reasonable period of time with a written order confirmation or are executed as agreed with the customer's consent (= conclusion of the contract).

2.3 The written order confirmation, including these General Terms and Conditions, is decisive for the type, scope and time of the deliveries or services. The order confirmation fully reflects all agreements between ORTNER ENERGY GROUP and its customers regarding the subject matter of the contract. Verbal promises made by ORTNER ENERGY GROUP prior to the conclusion of the contract are not legally binding and verbal agreements are replaced by the order confirmation unless they expressly state that they continue to be binding.

2.4 Additions or changes to the agreements made, including these General Terms and Conditions, must be in writing to be effective. Transmission by fax or e-mail is sufficient to comply with the written form, provided that it was sent with a read receipt and its receipt was confirmed (fax or read receipt).

2.5 Information from ORTNER ENERGY GROUP on the delivery date and the subject of the delivery or service (e.g. dimensions, tolerances, technical data) and the representation of the same by ORTNER ENERGY GROUP (e.g. drawings; illustrations) are only approximately relevant, unless the usability for the contractually stipulated purpose requires an exact match. They are not guaranteed quality features, but descriptions or identification of the delivery or service. Customary deviations that occur due to legal regulations or represent technical improvements, as well as the replacement of components with equivalent parts are permitted, provided they do not impair the usability for the contractually intended purpose.

2.6 Assured properties or guarantees of durability or quality must be specifically agreed in writing.

3. Prices

3.1 Unless otherwise stated in the order confirmation, the prices are in EURO and include delivery ex works or warehouse plus packaging, freight, customs, insurance, assembly, other ancillary costs and the sales tax applicable on the day of delivery; these items are shown separately on the invoice.

3.2 ORTNER ENERGY GROUP is entitled to charge a surcharge of EUR 15.00 as a flat-rate fee for additional expenses up to a net order value of EUR 500.00.

3.3 Insofar as the agreed prices are based on the ORTNER ENERGY GROUP list prices and the delivery is to take place more than four (4) months after the conclusion of the contract, the ORTNER ENERGY GROUP list prices valid at the time of delivery shall apply (in each case less an agreed percentage or fixed discount).

4. Terms of Payment

4.1 Unless otherwise agreed in writing, prepayment applies.

4.2 Bills of exchange and checks are not paid in lieu of payment, but are always only accepted on account of payment. Bills of exchange, checks and securities are accepted subject to all rights and without guarantee for timely presentation. Discount and incidental charges are at the expense of the business partner.

4.3 Irrespective of any performance determination to the contrary by the customer, payments will first be offset against older debts, first against costs, interest and finally against the principal claim.

4.4 The customer may only offset against counterclaims or withhold payments due to such claims if the customer's counterclaim has been legally established or is undisputed.

4.5 The date of receipt by ORTNER ENERGY GROUP is decisive for the timeliness of the payment. If the customer is in default of payment, interest on arrears of 8 percentage points will be charged - without prejudice to further claims; the assertion of further damages in the event of delay remains unaffected.

4.6 ORTNER ENERGY GROUP is entitled to carry out or provide outstanding deliveries or services only against advance payment or provision of security if circumstances become known to it after conclusion of the contract which are likely to significantly reduce the creditworthiness of the customer and which make it impossible to pay the outstanding claims of ORTNER ENERGY GROUP from the respective contractual relationship (including from other individual orders to which the same framework agreement applies).

5. Delivery, delivery time

5.1 Delivery is ex works.

5.2 Deadlines and dates for deliveries and services promised by ORTNER ENERGY GROUP are always only approximate, unless a fixed deadline or a fixed date has been expressly promised or agreed. If shipment has been agreed, delivery periods and delivery dates refer to the time of handover to the forwarding agent, carrier or other third party commissioned with the transport.

5.3 If a delivery date agreed in writing is significantly exceeded, the customer must first set ORTNER ENERGY GROUP a reasonable grace period. If the delivery is not made by the end of the grace period, the customer is entitled to withdraw from the contract by means of a written declaration, excluding other rights.

5.4 If only part of the delivery is affected, the right of withdrawal is limited to this part, unless the delivery made is of no objective use to the customer. If the ORTNER ENERGY GROUP is in default for reasons for which it is responsible, the customer is only entitled to claims for damages if the cause of the default is based on intent or gross negligence.

5.5 If there is a delay in delivery or performance due to force majeure or due to events that make delivery significantly more difficult or impossible, such as B. subsequent difficulties in procuring materials, operational disruptions, strikes, lockouts, lack of personnel, defects in means of transport, official orders, etc., even if they occur at suppliers or their sub-suppliers, the Ortner Energy Group can delay the delivery or service for the duration of the hindrance plus a reasonable start-up period or withdraw from the contract in whole or in part because of the part that has not yet been fulfilled.

5.6 If the hindrance lasts longer than three (3) months, the customer is entitled, after setting a reasonable deadline, to withdraw from the part of the contract that has not yet been fulfilled and to demand the repayment of any down payments made, excluding further rights.

5.7 In the case of partial delivery, the customer can only withdraw from the entire contract if the remaining fulfillment of the contract has no objective benefit for him.

5.8 If the goods are not accepted by the customer in whole or in part ten days after the confirmed delivery date or, in the case of delivery on call, including the call of partial quantities, not called within ten days after the date of the confirmed availability date, ORTNER ENERGY GROUP is entitled to choose to postpone the customer's order to the next availability, i.e. to dispose of the delivery item in whole or in part after setting and fruitless expiry of a reasonable period and to supply the customer with a reasonable, extended period or to store the goods and a storage fee for each week started of 0.5% of the order value or, after a reasonable deadline has been set and expired without result, to cancel the order in whole or in part and to demand a cancellation fee of 10% of the canceled order value. We reserve the right to assert and provide evidence of further storage costs.

5.9 Articles that are not in stock or special orders can only be taken back as a gesture of goodwill after consultation and approval of the sub-supplier and by charging the manipulation fee charged by the sub-supplier (at least 20%) plus transport costs. There is no legal obligation to take them back.

5.10 ORTNER ENERGY GROUP is entitled to charge the customer a processing fee of EUR 50.00 from the second postponement of a confirmed delivery date attributable to the customer. If postponements of a confirmed delivery date attributable to the customer result in a postponement of at least 28 calendar days, ORTNER ENERGY GROUP is entitled to withdraw from the costs specified in Section 5.8. to make use of certain opportunities accordingly.

6. Place of Performance, Dispatch, Packaging, Passing of Risk, Acceptance

6.1 The place of performance for all obligations arising from the contractual relationship is Eisenstadt, unless otherwise specified. If ORTNER ENERGY GROUP also owes the installation, the place of performance is the place where the installation has to take place.

6.2 The mode of dispatch and packaging are subject to the dutiful discretion of ORTNER ENERGY GROUP.

6.3 The risk passes to the customer at the latest when the delivery item is handed over (whereby the start of the loading process is decisive) to the forwarding agent, carrier or other third party responsible for carrying out the shipment. This also applies if partial deliveries are made or ORTNER ENERGY GROUP has taken on other services (e.g. shipping or installation). If shipping or handover is delayed as a result of a circumstance caused by the customer, the risk passes to the customer on the day on which the delivery item is ready for shipping and ORTNER ENERGY GROUP has notified the customer of this.

6.4 ORTNER ENERGY GROUP shall only protect the shipment against theft, Breakage , transport, fire and water damage or other insurable risks are insured.

6.5 Insofar as an acceptance has to take place, the purchased item is deemed to have been accepted if

– the delivery and, if ORTNER ENERGY GROUP is also responsible for the installation, the installation has been completed,

– ORTNER ENERGY GROUP has informed the customer of this with reference to the acceptance fiction according to this Section 6.5 and has requested him to accept,

– twelve (12) working days have passed since the delivery or installation or the customer has started using the purchased item (e.g. commissioning the system) and in this case six (6) working days have passed since the delivery or installation, and

– the customer has failed to accept the goods within this period for a reason other than a defect reported to ORTNER ENERGY GROUP that makes it impossible or significantly impairs the use of the purchased item.

7. Claims for Defects, Limitation of Liability and Inspection Obligation

7.1 The delivered items must be carefully examined immediately after delivery to the customer or to the third party named by the customer and any complaints must be recorded immediately on the delivery note. Even minor damage to the packaging or goods should be noted in writing on the delivery note with the note "Goods received damaged"! This is the only way to make a valid and timely complaint about any damage that has been found, and thus also regulate it. The actual and detailed damage shown must then be sent to ORTNER ENERGY GROUP within four (4) days with appropriate photo documentation. Subsequent complaints can neither be recognized by the forwarding agent nor by the transport insurance for insurance reasons.

At the request of ORTNER ENERGY GROUP, the delivery item is to be returned to ORTNER ENERGY GROUP carriage paid. If the notice of defects is justified, ORTNER ENERGY GROUP will reimburse the costs of the cheapest shipping method; this does not apply if (1) the costs increase because the delivery item is located at a location other than the place of intended use or (2) the delivery item is no longer located in Europe.

7.2 In the event that the notice of defects is made in a timely manner and is justified, the customer's right to improvement is limited, so that ORTNER ENERGY GROUP can choose to deliver a defect-free item as a replacement or rectify the defect at the exhibition site or in the delivery works. If the supplementary performance fails at least twice for each defect reported, the business partner can reduce the price or withdraw from the contract.

7.3 These warranty claims do not exist if, without the express consent of ORTNER ENERGY GROUP, repairs, modifications or repairs to the delivered items are carried out by the customer or a third party, rectification work is made more difficult by the customer or third parties, the commissioning takes place contrary to the instructions of ORTNER ENERGY GROUP or a defect can be traced back to incorrect or negligent handling or to natural wear and tear. In any case, the customer must bear the additional costs of remedying the defect arising from the change. If the delivery item is outside of Europe, ORTNER ENERGY GROUP does not bear any transport costs and will not reimburse them.

7.4 The warranty period is twenty-four (24) months for products of the ORTNER ENERGY GROUP brand and twelve (12) months for all other products from delivery or, if acceptance is required, from acceptance.

7.5 A delivery of used items agreed with the customer in individual cases takes place with the exclusion of any warranty for material defects.

8. Liability for damages due to negligence

8.1 The liability of the ORTNER ENERGY GROUP for damages, for whatever legal reason, in particular due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of obligations during contract negotiations and tortious acts, insofar as fault is relevant, is in accordance with these Clause 8. restricted.

8.2 ORTNER ENERGY GROUP is only liable in the event of major negligence on the part of its organs, legal representatives, employees or other vicarious agents.

8.3 Insofar as the ORTNER ENERGY GROUP is liable for damages on the merits in accordance with Section 8.2, this liability is limited to damages that the ORTNER ENERGY GROUP foresaw as a possible consequence of a breach of contract when the contract was concluded or that the ORTNER ENERGY GROUP should have foreseen if it had exercised due diligence.

Indirect damage and consequential damage resulting from defects in the delivery item can only be replaced if such damage is typically to be expected when the delivery item is used as intended.

8.4 The above exclusions and limitations of liability apply to the same extent in favor of the organs, legal representatives, employees and other vicarious agents of the ORTNER ENERGY GROUP.

8.5 Insofar as ORTNER ENERGY GROUP provides technical information or acts in an advisory capacity and this information or advice is not part of the contractually agreed scope of services owed by it, this is done free of charge and to the exclusion of any liability.

8.6 The limitations of this Section 8. do not apply to the liability of the ORTNER ENERGY GROUP for intentional conduct, for guaranteed quality features, for injury to life, limb or health or under the Product Liability Act.

9. Retention of Title

9.1 All goods delivered (reserved goods) are subject to retention of title until all claims arising from the business relationship with the customer have been settled. The goods and the goods covered by the retention of title that take their place according to this clause are referred to below as reserved goods.

9.2 The customer stores the reserved goods free of charge for ORTNER ENERGY GROUP. He undertakes to store the goods subject to retention of title separately and to notify the place of installation upon request.

9.3 The customer may sell and process the reserved goods in the ordinary course of business as long as he is not in default or the insolvency requirements are met or an application for the opening of insolvency proceedings has been filed against his assets. Pledges or collateral assignments are inadmissible.

9.4 If the goods subject to retention of title are processed by the customer, it is agreed that the processing is carried out in the name and for the account of ORTNER ENERGY GROUP as the manufacturer and the customer directly owns the goods or - if the processing is carried out from materials from several owners or the value of the processed item is higher is, as the value of the reserved goods, co-ownership (fractional ownership) of the newly created item in the ratio of the value of the reserved goods to the value of the newly created item. In the event that no such acquisition of ownership should occur at the customer, the buyer must transfer his future ownership or - in the above proportion - co-ownership of the newly created item to ORTNER ENERGY GROUP as security. The customer is responsible for the transfer of ownership. If the reserved goods are combined with other items to form a single item or are inseparably mixed and another item is to be regarded as the main item, the customer, insofar as the main item belongs to him, has ORTNER ENERGY GROUP pro rata co-ownership of the uniform item in the manner specified in sentence 1 transfer relationship.

9.5 The customer assigns the customer's claims against the purchaser arising from the resale or any other legal reason to ORTNER ENERGY GROUP as security. The same applies to other claims that take the place of the reserved goods or otherwise arise with regard to the reserved goods, such as B. Insurance claims or claims in tort for loss or destruction. The customer is revocably authorized to collect the claims in his own name. ORTNER ENERGY GROUP may only revoke this direct debit authorization in the event of realisation.

9.6 If third parties access the goods subject to retention of title, in particular through seizure, the customer must point out the ownership of ORTNER ENERGY GROUP and inform ORTNER ENERGY GROUP immediately. If the third party is not able to reimburse ORTNER ENERGY GROUP for the out-of-court and judicial costs incurred in this connection, the customer shall be liable for this.

9.7 ORTNER ENERGY GROUP will release the goods subject to retention of title and the items or claims replacing them upon request, at its discretion, if the value exceeds the amount of the secured claim by more than 50%.

9.8 If the customer acts in breach of contract, in particular default in payment, the company can take back the reserved goods at the customer's expense or, if necessary, demand the assignment of the customer's claim for surrender against third parties. Taking back or pledging the goods subject to retention of title by the company does not constitute a withdrawal from the contract.

10. Return Policy

10.1 The return of goods is an exception and is a voluntary concession by ORTNER ENERGY GROUP. Goods can only be returned

- which were delivered and invoiced by ORTNER ENERGY GROUP and
- which are in their original packaging and are in perfect and resalable condition and
- which ORTNER ENERGY GROUP has agreed to in writing.

10.2 A return is excluded if

- the net value of the goods is less than EUR 100 or/and
- the goods were not obtained directly from the ORTNER ENERGY GROUP by the customer and/or
- the delivery date of the goods is three (3) months or longer ago (calculated from the point in time according to Section 3 (1) of these conditions) or/and
- the goods are not salable (e.g. goods that are no longer included in the official price list of ORTNER ENERGY GROUP, made-to-measure or parts specially manufactured for the customer or products that have undergone technical changes in the meantime) and/or
- the item is explicitly marked as non-returnable.

A return is also excluded if the processing procedure described under 10.3 of these General Terms and Conditions is not complied with.

10.3 If a customer would like to return goods, he must first request the possibility of return in writing, stating the item number, the order quantity, the delivery note and the invoice number in the order processing of ORTNER ENERGY GROUP. ORTNER ENERGY GROUP will then check the possibility of taking it back and then declare in writing either its approval or rejection of the return. The goods must be returned within two (2) weeks. The period begins on the date of the written consent of ORTNER ENERGY GROUP. It is only guaranteed if the goods are received by ORTNER ENERGY GROUP within the period. Goods arriving outside the deadline will not be accepted and will be returned to the customer at the customer's expense and risk. The return of the goods takes place exclusively in

the area of responsibility and at the expense of the customer. In particular, he bears the risk of proper transport (including correct pallet size), deterioration, damage and loss until the goods are received by ORTNER ENERGY GROUP.

Goods sent to ORTNER ENERGY GROUP freight collect or without prior consent will not be accepted and will be returned to the customer at the customer's expense and risk. The same applies if, after the goods have been received by the ORTNER ENERGY GROUP, the information required under Sections 10.1 and 10.2 is found to be incorrect and/or incomplete .

10.4 ORTNER ENERGY GROUP records all returns on a credit note. Goods that are taken back are reimbursed at the net value of the goods minus a processing fee of 20% of the net value of the goods. The credit will be offset against the customer's next invoice. In principle, the credit amount is not paid out.

10.5 Only complaints relating to credit notes relating to the current month and the previous month can be accepted.

11. Final Provisions

11.1 The place of payment and fulfillment is Eisenstadt, the place of jurisdiction is Eisenstadt to the extent permitted by law.

11.2 The law of the Republic of Austria applies.

11.3 Should one or more clauses in these terms and conditions or a provision within the framework of other agreements be or become invalid, this shall not affect the validity of all other provisions or agreements. Instead, the respective legal regulation applies to this effective provision. The same applies accordingly in the event of the existence of a loophole.

A NOTICE:

The customer expressly agrees that ORTNER ENERGY GROUP stores data from the contractual relationship for the purpose of data processing and has the right to transmit the data to third parties to the extent necessary for the fulfillment of the contract.