



## General Terms and Conditions

### 1. Application of these terms and conditions of sale

- 1.1 These terms and conditions of sale apply to all deliveries of goods and services of STATEC BINDER GmbH ("Supplier").
- 1.2 Any modifications to the terms and conditions of sale referred to in section 1.1 are valid only upon express written consent of the Supplier.

### 2. Offer

- 2.1 Any offers of the Supplier are made without obligation.
- 2.2 Any documents relating to offers or a project may neither be copied nor made available to third parties without express written consent of the Supplier. They remain the exclusive property of the Supplier and must be returned to Supplier promptly upon its request.

### 3. Conclusion of contract

- 3.1 The contract becomes effective upon the written order confirmation or the actual delivery.
- 3.2 Any modifications or amendments to the contract require a written agreement.

### 4. Delivery

- 4.1 Agreed delivery periods start to run with the date of the order confirmation, provided the customer has complied with all its obligations.
- 4.2 Any permits or authorizations that may be required for the delivery outside of Austria must be obtained by the customer and, unless they are received in time, extend agreed delivery dates.
- 4.3 If the customer fails to comply with any of its obligations Supplier's obligations are suspended.
- 4.4 The Supplier is entitled to invoice advance or partial deliveries.
- 4.5 If the customer fails to accept any deliveries made available at the agreed place or time or if the dispatch of goods ready for delivery is not possible or desired by the customer the goods will be stored at the customer's cost and risk. The delivery shall then be considered as performed and may be invoiced by the Supplier.
- 4.6 In case of delay in delivery a compensation is paid only upon express agreement and shall be limited to the amount of any stipulated penalty.

### 5. Transfer of risk

- 5.1 Unless otherwise agreed costs and risk of loss are transferred to the customer upon delivery ex works. This also applies in case of transport by the Supplier and installation at the customer's premises.
- 5.2 If the delivery is delayed for reasons within the customer's responsibility costs and risk of loss pass to the customer upon the Supplier's notification of readiness for dispatch.

### 6. Prices

- 6.1 Any prices are quoted ex Supplier's works excluding packaging, dispatch and VAT. Any fees, taxes or other duties in connection with the delivery are the customer's responsibility.
- 6.2 Prices are quoted on the costs of material and labor valid at the time of the first offer. Any changes of these costs prior to the time of delivery entitle the Supplier to adapt the prices accordingly.

### 7. Plans and documentation

Any statements made in catalogues, brochures, newsletters, advertisements, pictures or price lists are only relevant if they are expressly referred to in the offer and/or the order confirmation.

### 8. Payment

- 8.1 Unless otherwise agreed one third of the price is due upon receipt of the order confirmation, one third once half of the delivery time has passed and one third upon delivery.
- 8.2 Payments shall be made in the agreed currency. The customer is responsible for any bank charges triggered by the payment.
- 8.3 The customer is not entitled to any right of set off or to withhold or reduce any payments due because of warranty or compensation claims.
- 8.4 In case of delayed payment or delay of any other customer obligation the Supplier may
  - a. suspend the performance of its own obligations until payment of any amount due or performance of other obligations due
  - b. apply a commensurate extension of the delivery date
  - c. immediately declare due the entire purchase price
  - d. charge the customer from such due date interest at the then current discount rate of the European Central Bank plus eight percentage points
  - e. rescind the contract upon setting a proper and reasonable grace period

### 9. Retention of title

Until customer has fulfilled all of its financial obligations any goods supplied shall remain the Supplier's property. The Supplier is entitled to mark its retention of title on the goods supplied. The customer shall be obliged to meet all legal requirements in order to safeguard the customer's property and security interest. Upon attachment or any other kind of seizure the customer must assert the Supplier's title and notify Supplier in writing immediately.

### 10. Warranty

- 10.1 The Supplier warrants that the goods and services are free from defects in material and workmanship and comply with the specifications and properties agreed.
- 10.2 The Supplier is not liable for defects beyond its scope of supply and delivery and for the compliance with any legal or administrative rules and requirements which were not notified to it in writing prior to the conclusion of the contract.
- 10.3 The Supplier is not liable for any defect caused by circumstances which arise after the risk has passed, e.g. incorrect or faulty erection, commissioning, repair – i.e. not carried out by Supplier or a business authorized by Supplier – or any modification carried out without Supplier's prior written consent.
- 10.4 The Supplier shall only be liable for defects which occur under the conditions of operation as provided for in the contract.
- 10.5 Normal wear and tear or deterioration are excluded from the warranty.



- 10.6** The Supplier's warranty is limited to defects which occur within twelve months after first commissioning, however not later than 18 months after notification of readiness of delivery. The provision of § 924 ABGB is excluded.
- 10.7** The customer has to promptly notify Supplier of any defect in writing. Such notice shall under no circumstance be given later than two weeks after the appearance or detectability of the defect and shall contain a detailed description of the defect. If the customer fails to notify Supplier in writing of a defect within the time limit set forth above it shall lose its warranty rights.
- 10.8** Where a defect is such that it may cause further damage, the customer shall notify Supplier in writing immediately. The customer shall be responsible for any damage resulting from its failure to so notify. The customer shall also take any reasonable measures to minimize damage and shall in that respect also comply with the Supplier's instructions.
- 10.9** Upon receipt of a timely notice of defect Supplier shall at its expense in its discretion remedy the defect by repair on location or in its plant or deliver substitute parts, provided the customer and/or the customer's final customer maintains an adequate inventory of replacement parts. The customer shall at its expense provide access to the goods delivered by Supplier and arrange for any intervention in equipment other than that delivered by Supplier. Any defective parts replaced by Supplier become its property.
- 10.10** If the customer has given a notice of defect to Supplier and no defect is found for which Supplier would be liable Supplier shall be entitled to compensation for the costs incurred as a result of such unfounded notice of defect.
- 10.11** If Supplier fails to fulfil its warranty obligation despite a written notice of defect the customer may itself undertake or employ a third party to undertake the necessary repair work at the risk and expense of Supplier. If the repair was successfully undertaken by the customer or a third party Supplier shall reimburse the customer for the reasonable costs incurred by it for such repair. Such reimbursement shall be in full settlement of Supplier's liabilities for the repair of the defect.
- 11. Liability**
- 11.1** Any claims for liability except for claims based on product liability laws may only be raised upon grossly negligent or intentional acts or omission of the Supplier and only for injuries to life and health and items directly damaged by the goods delivered. The evidentiary rule of § 1298 ABGB is excluded. Any other damages in particular, without limitation, for consequential damages or loss of profit are expressly excluded.
- 11.2** The goods delivered comply only with those safety requirements which may be expected based on applicable licensing regulations, operation manuals, Supplier's directions to use the goods – in particular in regard to certain required tests – and any other directions given.
- 11.3** Any claims for damages are forfeited if they are not raised within six weeks upon the occurrence of damage.
- 11.4** The customer shall subject its customers to the above limitations of liability.
- 12. Rescission of contract**
- 12.1** In addition to the rescission because of the delay of payment mentioned in section 8.4 e) above the Supplier may rescind the contract if
- the delivery or performance of services becomes impossible or delayed for reasons within the customer's responsibility beyond a reasonable grace period given in writing or
  - the customer's financial solvency has deteriorated substantially and the customer is not willing to make advance payments or provide adequate securities
  - the Supplier has reasonable cause to believe that its supply would violate an embargo. The rescission may also be declared with regard to any part of the delivery or performance of service yet unfulfilled.
- 12.2** Both parties may rescind with regard to any unfulfilled part of the contract if the performance of the contract is delayed for more than six months for reasons of force majeure (see item 13.).
- 13. Force Majeure**
- The agreed delivery terms do not apply upon unforeseeable, unavoidable events which are beyond the parties' will such as for example war, terrorism, natural disasters, acts and prohibitions of state or authorities, lack of energy or raw material, strikes, damage or delay in transport, etc.. Such events entitle the Supplier to commensurate extensions of the delivery dates even if they occur in the sphere of its sub-suppliers.
- 14. Intellectual property rights and copyrights**
- 14.1** If any good is produced according to customer's construction drawings, designs, models or other specifications the customer agrees to indemnify and hold the Supplier harmless in case of any infringement of third parties' rights.
- 14.2** Any technical documents including, without limitation, plans, drawings, technical descriptions, catalogues, brochures, pictures or models etc. remain the exclusive intellectual property of the Supplier. Any use, copying, reproduction, distribution or delivery to third parties, applications or demonstrations be subject to Supplier's prior express written consent.
- 15. Dispute resolution, applicable law**
- 15.1** Unless otherwise agreed the competent court at the corporate headquarters of the Supplier shall have exclusive jurisdiction for any disputes arising out of the contract.
- 15.2** The contract is subject to Austrian law under the exclusion of the conflict of law rules and the United Nations Convention on Contracts for the International Sale of Goods (CISG).