

## **General Terms and Conditions of Business and Delivery of i-warm GmbH**

**Last amended: 01/01/2025**

### **§ 1 Scope of application**

1. All orders placed with i-warm GmbH (hereinafter "Seller") for the delivery of goods or for the provision of other services are exclusively based on these General Terms and Conditions of Business and Delivery (hereafter "General Terms and Conditions") and on the legal provisions applicable in Germany except for the UN Convention on Contracts for the International Sale of Goods. Insofar as the following provisions deviate from these statutory provisions, these General Terms and Conditions shall apply exclusively.

2. General terms and conditions of the buyer or contractual partner (hereafter "Customer") that deviate from the provisions according to § 1 section 1 shall not constitute contractual content, even if not expressly rejected by Seller. Nor shall they constitute contractual content if Seller carries out an order with knowledge of them. Silence by Seller with regard to the validity of general terms and conditions of Customer shall not be deemed to be consent. A reference to a letter that contains or refers to conflicting general terms and conditions shall not constitute acceptance of these conditions by Seller.

### **§ 2 Scope of delivery obligations**

Unless otherwise agreed, Seller shall deliver only the goods ordered. Seller shall not be obliged to perform construction, installation or assembly work. Deviations in material thickness are due to manufacturing within certain tolerances.

### **§ 3 Technical consulting, training**

1. If Seller provides technical information, suggestions and advice, these shall be binding only where related to a specific item and provided in writing. Written and specific technical information, suggestions and advice must be checked by Customer for suitability. If necessary and feasible, other competent persons should be consulted.

2. As far as is legally permissible, liability is excluded for verbal or telephonic technical information, suggestions and advice as well as for the aforementioned written services and for training, as these are provided as a gesture of good will. In all other respects § 11 shall apply.

### **§ 4 Quotations, prices and payments**

1. Seller's quotations are subject to change without notice and depend in particular on manufacturing costs. If manufacturing costs have increased by the time a contract is formed, Seller shall be entitled to adjust the price. In the event

that the delivery or provision of the service takes place within four months of formation of contract, Seller shall be entitled to pass on to Customer any increases in production costs that have occurred. The order shall not be deemed accepted until confirmed in writing.

2. All prices are exclusive of sales tax and are therefore net prices.

3. Unless otherwise agreed in writing, payments shall be due immediately on receipt of invoice. We are entitled to payment in advance. Payments must be made free of charge by bank transfer or in cash and without any deduction. Payments made by Customer shall first be offset against incidental charges, then against interest and finally against the principal. If there are several liabilities, non-dedicated payments are always offset against the oldest debt. The withholding of payments or offsetting due to any counterclaims of Customer is hereby excluded. If payments are deferred by us or made later than agreed, interest of eight percentage points above the base rate shall be paid by Customer. In the event of default, Seller shall be entitled to charge a reminder fee of €25.00. The right to bring claims for further default damages remains unaffected. In the absence of agreement to the contrary, Customer shall for any instalment plan agreed be deemed in arrears on the total debt if even one instalment payment is missed.

### **§ 5 Freight**

In the absence of agreement to the contrary, freight costs shall be borne by Customer. The type of dispatch chosen by Seller shall be deemed approved. If Seller uses its own means of transport for delivery, a transport surcharge shall be invoiced unless agreed otherwise.

### **§ 6 Packaging, special logistics**

1. Any packaging used shall be produced as sales packaging, the disposal of which shall be the exclusive responsibility of Customer at its own cost. If, at Customer's request, packaging deviates from Seller's standard, this may be invoiced additionally.

2. If the goods are dispatched on pallets or squared timber, these shall be accepted, and their cost refunded, only if they are returned carriage paid in undamaged condition to one of Seller's factories. The costs shall be refunded by means of a credit note.

### **§ 7 Delivery periods**

1. Delivery periods specified by Customer shall be binding only if confirmed by us. The delivery period begins with the sending of order confirmation, but not until all technical, commercial and financial questions have been clarified, documents to be procured by Customer have been provided, approvals issued and any agreed deposit received. The delivery period shall be deemed to have been met if by the end of the delivery period the delivery item has left the factory

or Customer has been notified that it is ready for dispatch. Compliance with the delivery period presupposes Customer's compliance with its contractual obligations.

2. In the event of unforeseen events beyond the control of Seller (e.g. traffic disruptions, strikes, lock-outs, disruption to energy supply or other operational disruption such as shortage of goods, wagons or raw materials) or in the event of force majeure, the delivery period shall be extended accordingly.

3. If dispatch or delivery is delayed for reasons for which Customer is responsible, Seller may invoice Customer for storage costs. Seller may also demand a fee of 0.5% of the invoice amount per month to meet storage costs.

### **§ 8 Transfer of risk**

Seller's liability shall cease on transfer of goods to the carrier. Risk shall pass to Customer as soon as the goods are transferred to the forwarding agent, freight carrier or any other person or institution designated to carry out the shipment.

### **§ 9 Obligation to inspect and give notice of defects**

Customer shall unload goods immediately. In order to safeguard its rights, Customer or, in the case of third-party deliveries, Customer's customer shall check all deliveries before and after unloading for any transport damage or loss or quantity discrepancy. All discernible defects and discrepancies must be notified to Seller in writing immediately on discovery. The type and extent of the defect/discrepancy must be communicated (initially by phone and then confirmed via fax) and Seller must be given the opportunity to inspect the defects/discrepancies on site without delay.

### **§ 10 Liability for defects, agreed quality, notice of defects**

1. Information in price lists, brochures etc. of Seller is supplemented by more detailed descriptions of the products provided by Seller and provides an approximate description of product properties. This information does not constitute any form of guarantee whatsoever. In the absence of any other express written agreement, the contractually agreed quality shall derive exclusively from Seller's written quotation, delivery notes and invoices and from the DIN or DIN EN standards applicable to Seller's products.

2. No warranty is given for defects resulting from inaccurate information or instructions provided by Customer. If products or supplies are manufactured by Seller on the basis of design data, drawings, models or similar specifications provided by Customer, liability for defects shall extend only to non-compliance with such. In the event of acceptance of repair orders or in the event of

modifications or conversions of old or third-party items, Seller provides no warranty.

3. Notification of defect is excluded if the condition of the goods or service has altered subsequent to transfer of risk. Defective items are to be returned immediately by Customer at the request of Seller, freight and charges paid, and shall revert to being property of Seller. Otherwise any liability for defects is excluded.

4. If only a part of the delivery or service is defective, this shall not entitle Customer to reject the entire delivery or service. Seller shall be liable for material defects only to the extent that it could have identified the defect by exercising professional care. For all third-party products supplied, Seller shall assume only subsidiary liability in relation to the liability of the manufacturer. Seller's claims against the manufacturer shall be assigned to Customer.

5. In the event of a justified notice of defect, Seller shall be entitled at its own discretion, excluding Customer's right of choice, both in the case of a purchase contract and a contract for work and services, either

- to deliver defect-free goods on return of the defective goods;
- to withdraw from the purchase contract and to refund the purchase price;
- to remedy or supply the defective or missing part within a reasonable period of time; or
- to reimburse Customer for the reduced value of the goods or services while maintaining the contract.

Further claims of Customer are hereby excluded. All costs incurred in connection with remedying the defect shall be borne by Customer.

6. If our goods are installed or assembled by Customer or its customer on a piece of land or in a building and if the conditions of § 439 section 2 and 3 BGB (German Civil Code) are also met, we reserve the right to demand the removal of the defective goods and the installation of defect-free goods or to reimburse expenses.

7. In the event of arbitrary remedy of defects by Customer, all claims for damages and warranty against Seller shall be void.

### **§ 11 Exclusion of liability**

1. Insofar as is legally permissible, and in particular as soon as it depends on fault, Seller's liability for damages, irrespective of grounds, and in particular for defective delivery or performance, default, impossibility, breach of general obligations in contract negotiation/performance, tort and manufacturer's liability, is hereby excluded or limited as follows,:

- In the event of slight negligence on the part of Seller's organs, legal or other representatives, employees or vicarious agents, Seller shall be liable only for breach of essential contractual obligation.
  - In the event of gross negligence on the part of Seller's non-executive employees or other vicarious agents, Seller be liable only for breach of essential contractual obligations.
  - In all other cases Seller shall be liable only if responsible for the fault.
2. In the event of slight or gross negligence on the part of Seller, its liability for damages not typical of the contract and for unforeseeable damages is hereby excluded.
3. The liability of Seller in the case of slight or gross negligence is limited to ten times the cost of services rendered and related to the negligence. In the event of gross negligence, this shall apply only to breach of non-essential contractual obligations.
4. The above exclusions and limitations of liability shall apply directly and to the same extent to the benefit of the organs, legal and other representatives, employees and vicarious agents of Seller.
5. If Seller is nevertheless liable, liability shall be limited to €2,000,000 for personal injury and €500,000 for property damage etc.

## **§ 12 Right of withdrawal**

1. Customer shall have the right to withdraw from the contract if:
- Seller has allowed the fruitless elapse of a reasonable period of grace for the elimination of a defect for which it is responsible; or
  - repair via procurement of a suitable replacement part is impossible; or
  - the remedy of a defect notified to Seller is definitively declined by Seller.
2. Should an unforeseen event substantially change the commercial significance or nature of Seller's performance or have a significant effect on Seller's business or make it impossible for Seller subsequently to perform the contract, Seller shall be entitled to withdraw from the contract in whole or in part. In such an event, Seller shall immediately:
- inform Customer about the unforeseen event - i.e. the reason for withdrawal as per 1. above;
  - return to Customer any fees paid by Customer;
  - declare its withdrawal. This shall also apply if an extended delivery period has been agreed with Customer.

3. Section 2 shall apply accordingly if Customer is in breach of contract or lacks creditworthiness. The assertion of further claims for damages shall remain at the discretion of Seller.

4. Claims by Customer for damages based on Seller's withdrawal as per section 2 or 3 are excluded.

5. If after formation of the purchase contract Seller becomes aware that the financial circumstances of Customer have deteriorated and there is a reasonable expectation that the Customer will not be able to meet its contractual obligations or not be able to meet them immediately, Seller shall be entitled to demand advance payments or the provision of securities to the value of the delivery or goods. If Customer does not comply, Seller reserves the right to withdraw from the contract. The costs incurred by Seller up to the point of withdrawal shall be borne in full by Customer. Section 3 sentence 2 and section 4 shall apply accordingly.

### **§ 13 Reservation of title**

1. Delivered goods shall remain Seller's property until full payment of the purchase price and settlement of all other present or future claims to which Seller is entitled from Customer as a result of the business relationship and shall be surrendered immediately on demand.

2. Any processing or transformation of Seller's goods shall be done in recognition of Seller's role as manufacturer but without any obligation on Seller's part. In the event of Customer's processing or combination of Seller's goods with other goods not belonging to Seller, Seller shall be entitled to co-ownership of the resulting item(s) in the proportion of the invoice value of the reserved goods to the processed or transformed goods at the time of processing or transformation. Customer shall in the aforementioned cases store the goods owned or co-owned by Seller, which shall also be regarded as reserved goods within the meaning of these General Terms and Conditions, free of charge. Customer is entitled to process, transform and sell the reserved goods in the ordinary course of business. Attachments or transfers by way of security or other disposal of the goods are inadmissible. Without any separate declaration by Seller being required, claims arising from resale or on any other grounds (e.g. payment of insurance, compensation for tort) in respect of the reserved goods shall be assigned to Seller as security for all of Seller's claims arising from the business relations with Customer. This applies irrespective of whether the reserved goods are sold without or after processing and transformation and whether they are sold to one or more customers. The assignment shall be made together with all ancillary rights, including the right to the registration of a collateral mortgage with priority over Customer's claims. If Customer sells the goods that are subject to retention of title together with other goods not supplied by Seller, the assignment shall be made in the amount of the proportionate value of the goods subject to retention of title to the total sale price. In such a case, the proportionate value of the reserved goods shall be the invoice amount of Seller plus a surcharge of 20%, which however shall not be taken into account if the

third-party rights conflict with it. Pre-assignment shall also extend to the balance claim, including the final balance from any current invoice of Seller. In all cases, Customer shall be entitled to resell the goods only if it has been ensured that the claims assigned as above are transferred to Seller.

3. If reserved goods are installed by Customer as an essential component in the property of a third party, the statutory claims against the third party to which Customer is entitled for remuneration in the amount of the value of the reserved goods shall be deemed assigned to Seller. As long as Customer is entitled to resell the goods, it shall also be entitled to collect the resale proceeds.

4. Customer shall until its customers have paid the price in full retain as reserved goods the conditional property to which it is entitled. Without this retention, Customer is not authorised to resell the reserved goods.

5. If Customer is in default of an obligation towards Seller or if its financial circumstances deteriorate within the meaning of § 12 section 5 or if Seller asserts its rights pursuant to § 12 section 2, 3 or 5, Customer's right to process, transform and resell the reserved goods and the authorisation to collect the claims assigned to Seller vis-à-vis Customer's customers shall lapse. Seller may demand that Customer inform it of the assigned claims and their third-party debtors and provide all information required for the collection of this claim, and at least that copies of the relevant documents are made available to it and that the third-party debtor be notified of the assignment. In addition, Seller may itself notify third-party debtors of assignment. Seller may also demand that any goods still available be returned to it without such return implying withdrawal from the purchase contract. Unsellable or partly sellable goods will not be taken back or will be taken back without compensation, the choice to be at Seller's discretion. With regard to goods that can be sold, Seller is entitled to a flat-rate claim for damages of 20% of the value of the goods in addition to the return of the goods. The same applies to voluntary return of goods due to asserted retention of title according to § 13.

6. If the value of the security granted to Seller exceeds the amount of its claim by more than 20%, it shall release securities at its discretion at the request of Customer or of a third party affected by the excess security. The receivables assigned to Seller are to be stated at their nominal value.

### **§ 14 Export Control**

1. The Buyer shall not directly or indirectly sell, export or re-export products purchased from i-warm GmbH in breach of applicable national and international regulations related to (re)export control and economic sanctions. In particular, the Buyer prohibits from making the products available to any person or entity located in a country (such as Cuba, Iran, North Korea, Russia, etc.) subject to (re)export controls imposed in particular by the European Union or the United States.

2. The Buyer must immediately inform i-warm GmbH of any difficulty he encounters regarding compliance with this prohibition. I-warm reserves the right to ask the Buyer for any evidence to justify compliance with this prohibition. In the event of violation of this prohibition, i-warm will



immediately and without notice period terminate the commercial relationship with the Buyer and cancel ongoing orders, without the latter being able to claim any compensation and without prejudice to any damages that i-warm reserves the right to claim.

### **§ 15 Place of performance, place of jurisdiction, applicable law**

1. Insofar as Customer is a merchant, a legal entity under public law or a special fund under public law, the place of performance and exclusive place of jurisdiction for deliveries and payments (including claims based on cheques and bills of exchange) and all disputes arising therefrom shall be Seller's registered office.
2. Contractual relations shall be governed exclusively by the law applicable in Germany with the exception of the UN Convention on Contracts for the International Sale of Goods.

### **§ 16 Miscellaneous**

1. Employees of Seller, in particular commercial agents, are authorised to collect debts only where issued with power of attorney issued by Seller. Payment made to an employee of Seller without presentation by him/her of power of attorney shall not be deemed received by Seller.
2. In accordance with the GDPR and the Germany's Data Protection Act (BDSG), data required for business transactions is processed and stored using an EDP system. Personal data will be treated confidentially and processed only to the extent necessary for performance of contract.
3. Seller and Customer may advertise their business relationship only with the written consent of the other partner.
4. Should any of the above provisions be or become invalid, partially invalid or excluded by a special agreement, the validity of the remaining provisions shall remain unaffected. The invalid provision shall be replaced by a provision that comes as close as possible to the commercial purpose of the contract and the reasonable protection of the interests of both parties.