

# General Terms and Conditions

**System S&P GmbH, Kirchberg an der Jagst**

**Version dated 19 September 2025**

In the following provisions, the company System S&P GmbH, Kirchberg an der Jagst, is uniformly referred to as "SYSTEM S&P" and the contractual partner as "Purchaser"; insofar as these General Terms and Conditions apply to orders placed by SYSTEM S&P, the latter shall be referred to as "SYSTEM S&P" and the seller as "Supplier" or "Delivery Agent".

## **1. General**

1.1 Unless otherwise specified in separately negotiated contractual terms and conditions and in the order confirmation from SYSTEM S&P or in an order placed by SYSTEM S&P, these General Terms and Conditions shall apply.

1.2 Any deviating agreements made before, during or after the conclusion of the contract require formal written confirmation by SYSTEM S&P to be valid (offers, orders, order confirmations, letters on letterhead and contracts are valid; verbal agreements and emails are not valid).

1.3 In German-speaking countries, only German is generally accepted as the contract language. In other countries, only English is generally accepted as an alternative contract language, regardless of the actual language area. Documents in other languages, in particular technical specifications and contracts, are welcome as additional information but can never become part of the contract.

## **2. Scope**

2.1 These contractual terms and conditions apply exclusively to entrepreneurs, legal entities under public law or special funds under public law within the meaning of Section 310 (1) of the German Civil Code (BGB). SYSTEM S&P shall only recognise terms and conditions of the customer that conflict with or deviate from SYSTEM S&P's contractual terms and conditions if SYSTEM S&P expressly agrees to their validity in writing.

2.2 These contractual terms and conditions shall also apply to all future transactions with the customer, insofar as these are legal transactions of a related nature.

## **3. Offer and draft**

3.1 All information contained in the offer and the accompanying documents, such as illustrations, drawings, weight and dimension specifications, are only approximate unless they are expressly designated as binding.

3.2 SYSTEM S&P reserves the property rights and copyright to the illustrations, drawings, designs and quotations; these documents may not be made accessible to third parties. In the event of violations, a contractual penalty of €10,000 shall be payable in each case,

unless the customer can prove that no damage of this amount has been incurred.

3.3 SYSTEM S&P reserves the right to make changes to the offer, provided that these changes correspond to the state of the art and do not adversely affect the quality and quantity of the service description contained in the offer for the customer.

3.4 If no contract is concluded between SYSTEM S&P and the customer, SYSTEM S&P reserves the right to reclaim all documents provided to the customer in connection with the order, such as calculations, drawings, etc.

3.5 For offers that include transport or delivery and installation, it is always assumed that there will be unobstructed access and a smooth process (no restrictions due to bridges, hairpin bends, poor ground conditions, weather conditions, waiting times, etc.). Likewise, if necessary, access and parking space for any required equipment is the responsibility of the customer.

3.6 Delivery times stated in the offer are to be regarded as estimated delivery times (guidelines) based on past experience. Depending on capacity utilisation at the time of the offer and at the time of a subsequent order, delivery times may vary considerably in some cases. During factory holidays, delivery times may be extended accordingly. These are not taken into account in the estimated delivery times.

#### **4. Conclusion of contract**

The contract is only concluded upon receipt of the order confirmation by SYSTEM S&P.

#### **5. Prices and scope of services**

5.1 Prices are ex works Kirchberg an der Jagst.

Unless specifically stated otherwise, prices do not include packaging and loading at the factory, transport costs, insurance and other expenses. Value added tax at the applicable rate shall be added to the prices quoted, even if not expressly mentioned. For domestic deliveries, this is currently 19%; for deliveries abroad, it is 0%.

5.2 The transport risk is borne by the customer.

If carriage paid delivery has been agreed, SYSTEM S&P shall take out insurance at the expense of the customer; this shall only not apply if the customer waives such insurance in writing.

5.3 The prices quoted are in euros (€); payment in foreign currency is only permitted if this has been expressly confirmed in writing by SYSTEM S&P in the order confirmation.

5.4 Minimum quantity surcharge: For orders with a net order value of less than €150, SYSTEM S&P shall charge a minimum quantity surcharge of €25. This surcharge shall not apply to collective orders that are invoiced together.

## **6. Terms of payment**

6.1 Payment of the purchase price must be made exclusively to one of the accounts listed on the reverse side. Discounts are only permitted if confirmed in writing in the order confirmation and only on condition that all previous invoices to which the customer had no right of set-off have been settled by that date.

6.2 Unless otherwise agreed, the following terms of payment apply for domestic customers:

6.2.1 Private customers:

30% advance payment upon receipt of the order confirmation

65% upon dispatch, but no later than 4 weeks after notification of readiness for dispatch

5% after acceptance of the plant, but no later than 6 months after notification of readiness for dispatch

6.2.2 Public-law corporations

In accordance with VOB in its currently valid version

6.3 Unless otherwise agreed, the following terms of payment apply to foreign countries: Unless otherwise agreed, deliveries to foreign countries must be secured by a letter of credit or paid for in advance.

Payment in advance

30% advance payment upon receipt of the order confirmation

70% 10 days before delivery, but no later than 4 weeks after notification of readiness for dispatch

Payment secured by irrevocable letter of credit (L/C)

100% against presentation of shipping documents ("payable at sight")

6.4 Offsetting against counterclaims is only permissible if these are recognised by SYSTEM S&P or if the counterclaims have been legally established or are undisputed. A right of retention is excluded if the customer is a registered trader.

6.5 If the customer is in default of payment, SYSTEM S&P is entitled, even without proof of damage caused by default, to charge default interest at a rate of 9 percentage points above the respective base interest rate p.a. for transactions with entrepreneurs and at a rate of 5 percentage points above the respective base interest rate p.a. for transactions with consumers. The base interest rate according to § 247 BGB (German Civil Code) of the Deutsche Bundesbank shall be decisive. We reserve the right to assert further damages. The customer reserves the right to prove that no damage caused by default in this amount has been incurred. For public-law corporations, the provisions of the VOB (German Construction Contract Procedures) apply.

6.6 Unless a fixed price has been agreed, we reserve the right to make reasonable price changes due to changes in wage, material and distribution costs for deliveries made 3 months or more after conclusion of the contract.

## **7. Retention of title**

7.1 SYSTEM S&P retains ownership of the delivered goods until all claims against the customer arising from the delivery contract, including any current account balance, have been paid in full. This also applies to all future deliveries, even if SYSTEM S&P does not always expressly refer to this. SYSTEM S&P is entitled to take back the purchased item if the customer acts in breach of contract.

7.2 The customer is obliged to treat the purchased item with care as long as ownership has not yet been transferred to him. In particular, he is obliged to insure it adequately at his own expense against theft, fire, frost and water damage at replacement value. As long as ownership has not yet been transferred, the customer must notify SYSTEM S&P immediately in writing if the delivered item is seized or subject to other interventions by third parties. If the third party is unable to reimburse SYSTEM S&P for the judicial and extrajudicial costs of a lawsuit in accordance with § 771 ZPO (German Code of Civil Procedure), the customer shall be liable for the loss incurred by SYSTEM S&P as a result.

7.3 The customer is entitled to resell the goods subject to retention of title in the normal course of business. The customer hereby assigns to SYSTEM S&P the claims of the purchaser arising from the resale of the goods subject to retention of title in the amount of the final invoice amount agreed with SYSTEM S&P (including value added tax). This assignment shall apply regardless of whether the purchased item has been resold without or after processing. The customer shall remain authorised to collect the claim even after the assignment. SYSTEM S&P's authority to collect the claim itself remains unaffected. However, SYSTEM S&P will not collect the claim as long as the customer meets its payment obligations from the proceeds received, is not in default of payment and, in particular, no application for the opening of insolvency proceedings has been filed or payments have been suspended.

7.4 The processing or transformation of the purchased item by the customer shall always be carried out in the name and on behalf of SYSTEM S&P. In this case, the customer's expectant right to the purchased item shall continue to apply to the transformed item. If the purchased item is processed with other items not belonging to SYSTEM S&P, SYSTEM S&P shall acquire co-ownership of the new item in proportion to the objective value of the goods delivered by SYSTEM S&P to the other processed items at the time of processing. The same applies in the event of mixing. If the mixing is carried out in such a way that the purchaser's item is to be regarded as the main item, it is agreed that the purchaser shall transfer proportional co-ownership to SYSTEM S&P and shall hold the resulting sole ownership or co-ownership in safekeeping for SYSTEM S&P. SYSTEM S&P must release the securities to which it is entitled at its discretion insofar as their value exceeds the claims to be secured by more than 25%.

7.5 The customer is obliged to notify SYSTEM S&P immediately if SYSTEM S&P's retention of title could be impaired by processing or delivery to third parties; at the request of SYSTEM S&P, the customer is also obliged to notify third parties of the assignment of its claims, without prejudice to the right of SYSTEM S&P to do so itself.

## **8. Delivery time and transfer of risk**

8.1 The commencement of the delivery period specified by SYSTEM S&P is subject to the timely and proper fulfillment of the purchaser's obligations. The delivery period shall not commence before the purchaser has provided the necessary documents, approvals and releases and before the agreed down payment has been received. The right to plead non-performance of the contract is reserved.

8.2 The agreed delivery time is only binding for SYSTEM S&P if it has been expressly confirmed in writing as a binding delivery time. Even in this case, SYSTEM S&P shall not be liable if the delay is due to force majeure, such as strikes or weather conditions, or to delayed delivery by subcontractors through no fault of their own. If the delay is due to circumstances within the sphere of influence of the customer, a delay in delivery shall have no consequences for SYSTEM S&P, even in the case of a fixed-date transaction.

8.3 In the event of a grossly negligent delay in delivery caused by SYSTEM S&P itself, SYSTEM S&P shall be liable for each completed week of delay within the framework of a lump-sum compensation for delay amounting to 0.25% of the delivery value, but not exceeding 2.5% of the delivery value.

8.4 The risk shall pass to the customer upon notification of completion. If the customer is in default of acceptance or culpably violates other obligations to cooperate, SYSTEM S&P shall be entitled to demand compensation for the damage incurred in this respect, including any additional expenses. This applies, for example, to the necessary winter storage of systems or system components. Further claims remain reserved. If the above conditions are met, the risk of accidental loss or accidental deterioration of the purchased item shall pass to the customer at the point in time at which the customer is in default of acceptance or payment.

8.5 If SYSTEM S&P is prevented from fulfilling the contract or if fulfillment is made so difficult that it is no longer feasible at the calculated costs due to circumstances for which it is not responsible, SYSTEM S&P shall be entitled to withdraw from the contract in whole or in part at its discretion.

8.6 Further legal claims and rights of the customer due to a delay in delivery remain unaffected.

## **9 Shipping, delivery, transport risk, winter safety**

9.1 Shipping shall be carried out in accordance with the customer's instructions or, in the absence of such instructions, at the discretion of SYSTEM S&P. Unless otherwise agreed in writing, the risk of accidental loss or accidental deterioration of the goods shall pass to the customer upon dispatch to the customer, but no later than upon leaving the factory/warehouse. This applies regardless of whether the goods are shipped from the place of performance or who bears the freight costs.

9.2 SYSTEM S&P is entitled, but not obliged, to insure the purchaser's transport risk at the purchaser's expense. SYSTEM S&P must take out transport insurance if this is requested in writing by the purchaser.

9.3 Upon receipt of the goods, the customer must duly comply with their obligations to inspect and give notice of defects in accordance with Section 377 of the German Commercial Code (HGB). Any notice of defects must be made in writing by registered letter.

9.4 During transport, delivery and installation, free access and smooth operation are always assumed (no restrictions due to bridges, hairpin bends, poor ground conditions, weather conditions, no waiting times, etc.). Likewise, if necessary, access and parking space for the required auxiliary equipment shall be the responsibility of the customer.

9.5 In the case of systems that have already been delivered but are not immediately put to their intended use, the customer is obliged to take appropriate measures to protect the system in consultation with SYSTEM S&P. Examples of delivered earth-moving equipment where measures must be taken: The equipment is outdoors but not filled, or the equipment will not be put into operation with wastewater over the winter.

## **10 Warranty and liability**

10.1 If SYSTEM S&P provides operating instructions with the goods, the delivered goods may only be assembled and operated in accordance with these operating instructions. In the event of non-compliance with the operating instructions by the customer, SYSTEM S&P shall not be held responsible for any defects that may arise as a result. The customer bears the burden of proof that these defects would also have occurred if the operating instructions had been followed.

10.2 The same applies in the event that SYSTEM S&P has carried out the assembly.

10.3 The delivered goods are movable items for which the statutory warranty of 12 months from the date of acceptance or from the date of delivery ex works in Kirchberg an der Jagst applies. The above provisions do not apply if the law prescribes longer periods in accordance with Section 438 (1) No. 2 BGB (buildings and items for buildings), Section 479 (1) BGB (right of recourse) and Section 634a (1) BGB (construction defects). The consent of SYSTEM S&P must be obtained before returning any goods. A warranty for wear parts and consumables is excluded.

10.4 If, despite all due care, the delivered goods show a defect that already existed at the time of transfer of risk, SYSTEM S&P shall, subject to timely notification of defects, either repair the goods or deliver replacement goods at its discretion. SYSTEM S&P must always be given the opportunity to remedy the defect within a reasonable period of time. SYSTEM S&P is only required to carry out such work during normal working hours. Only in urgent cases where safety is at risk and to prevent disproportionately large damage – in which case SYSTEM S&P must be notified immediately – or if SYSTEM S&P is in default with the rectification of the defect, shall the customer be entitled to rectify the defect itself or have it rectified by third parties and to demand reimbursement of the necessary costs from SYSTEM S&P. Recourse claims remain unaffected by the above provision without restriction. If the subsequent performance fails, the customer may – without prejudice to any claims for damages – withdraw from the contract or reduce the remuneration. If a material defect occurs after delivery of the goods, the burden of proof for the material defect lies with the customer.

10.5 Claims for defects shall not exist in the case of only insignificant deviation from the agreed quality, only insignificant impairment of usability, natural wear and tear or damage occurring after the transfer of risk as a result of incorrect or negligent handling, non-observance of the operating instructions, excessive strain, unsuitable operating materials, defective construction work, unsuitable building ground or due to special external influences that are not assumed under the contract. If the customer or third parties carry out improper repair work or modifications, no claims for defects shall exist for these and the resulting consequences.

10.6 Claims by the customer for expenses necessary for the purpose of subsequent performance, in particular transport, travel, labour and material costs, are excluded if the expenses increase because the goods delivered by SYSTEM S&P have subsequently been moved to a location other than the customer's branch office, unless the transfer corresponds to their intended use.

10.7 Further claims by the customer, in particular claims for compensation for damage not caused to the delivery item itself, are excluded. This exclusion of liability does not apply in cases of intent or gross negligence on the part of the owner or senior executives, or in cases where liability exists under the Product Liability Act in the absence of the delivery item. It also does not apply in the absence of properties that have been expressly warranted if the purpose of the warranty was to protect the customer against damage not caused to the delivery item itself.

10.8 If, through the fault of SYSTEM S&P, the delivered item cannot be used by the customer in accordance with the contract as a result of omitted or incorrect implementation of suggestions and advice given before or after conclusion of the contract or omitted advice, as well as other contractual ancillary obligations – in particular instructions for operation and maintenance of the delivery item – the provisions of the preceding paragraph shall apply to the exclusion of further claims by the customer.

10.9 A warranty is excluded in the event of interventions or modifications made by the customer to the mechanics or electricians.

## **11 Copyright**

Brochures, drawings, cost estimates, software and other documents provided to the customer may not be used by the customer for reproduction or made available to third parties. They are intended solely for the present order and the operation of the delivered system. SYSTEM S&P holds the copyright to these documents and may reclaim them.

## **12 Non-acceptance by the customer**

If the customer fails to fulfill their obligation to accept the ordered delivery, SYSTEM S&P shall be entitled to claim at least 40% of the order amount as compensation, subject to the assertion of further damages. The customer reserves the right to prove that the damage incurred by SYSTEM S&P is less than 40%.

## **13 Orders placed by SYSTEM S&P**

13.1 Insofar as SYSTEM S&P orders goods, the above provisions shall not apply, with the exception of the following General Provisions on the Place of Performance and Jurisdiction.

13.2 These General Terms and Conditions apply exclusively to all offers, contracts and deliveries. Deviating, conflicting or supplementary terms and conditions shall not become part of this contract, either in whole or in part, even if they are not expressly contradicted. The General

The terms and conditions apply to all orders placed by SYSTEM S&P and to all legal transactions concluded by SYSTEM S&P with suppliers for materials and services. Orders placed by SYSTEM S&P shall only become binding once SYSTEM S&P has sent the supplier a written order confirmation. Written orders shall be sent to the supplier by fax, post, courier or email. Technical changes as well as changes in shape, colour and suitability, weights, dimensions, etc. must be communicated in writing to SYSTEM S&P by the supplier without being requested to do so in the event of deviations. If the written order is not rejected in whole or in part in writing within 3 working days of receipt, the terms and conditions shall be deemed to have been agreed.

13.3 SYSTEM S&P is entitled to have the goods it has ordered transferred free of charge to Kirchberg an der Jagst at the supplier's expense and risk. The prices include the costs of transport and, if necessary, the required packaging. The dimensions specified in the supplier's packaging regulations must be observed. Costs for disposal or similar SYSTEM S&P shall not bear any costs incurred as a result of the packaging regulations. In the event of a delay in delivery, which must be notified in writing by SYSTEM S&P, the supplier shall be liable for the costs incurred as a result, in particular for waiting times, cover purchases or other necessary measures to ensure that the regular operation of SYSTEM S&P is not jeopardised.

The delay in delivery shall commence after the expiry of a grace period set by SYSTEM S&P. The grace period shall be chosen in such a way that the supplier has the opportunity to provide a corresponding service in accordance with the concluded contract or, in written agreement, a comparable alternative service. Simple negligence shall also be considered a delay in delivery. If the supplier has not performed the service after the grace period has expired, SYSTEM S&P shall, if necessary, carry out a corresponding covering purchase or find an alternative solution at the supplier's expense in order to ensure that the overall deadline and project schedule are met.

13.4 Invoices shall be issued in euros plus the applicable statutory value added tax. In the case of construction work, the relevant exemption certificates must be submitted to SYSTEM S&P without request, at the latest when the invoice is issued. Prices are valid during the delivery period for the total quantity ordered.

13.5 Payment shall be made in euros. Foreign currencies shall only be accepted by separate written agreement. Unless otherwise agreed, payment shall be made within 30 days of receipt of the invoice, which must be verifiable. The prerequisite for invoice verification is the submission of the original and a copy of the invoice, stating the document number/order number. Furthermore, the invoice must be identical in content to the order sent to the supplier in writing with regard to description, packaging sizes, dimensions, etc. Only original invoices will be accepted. A cash discount may be deducted by special agreement, specified in the written order. Invoice deductions or offsetting against other invoices in the event of delivery delays or defective performance are generally permitted. The invoice must comply with the regulations of the German tax authorities.

13.6 SYSTEM S&P is entitled to the full statutory claims for defects. These claims are subject to the statutory limitation period. If the delivered goods are defective, SYSTEM S&P may, at its discretion, demand subsequent performance, rectification or replacement delivery. Appropriate deadlines must be agreed in writing for this purpose. If the subsequent performance fails, SYSTEM S&P is entitled to withdraw from the contract or to demand a reduction in the purchase price or to charge the supplier for the consequential costs incurred in remedying the defect. A maximum of one week (7 days) is usually set as a reasonable deadline. Unless

agreed a different deadline in writing in advance. The supplier undertakes to provide SYSTEM S&P with all current assembly instructions, technical documentation, operating instructions or similar documents available at the time of delivery without being asked to do so.

13.7 The supplier guarantees that the deliveries or services comply with the agreed specifications, have the agreed quality and are free from defects that would negate or reduce their value or suitability for normal use or the use specified in the contract. The supplier further guarantees that, unless special rules have been agreed, the deliveries and services comply with the recognised rules and the latest state of the art, the relevant environmental protection, accident prevention and other occupational safety regulations, as well as the generally recognised safety and occupational health rules applicable in the Federal Republic of Germany.

13.8 The supplier must acknowledge receipt of any complaints made by SYSTEM S&P within the same working day. Furthermore, the supplier must check the complaint for accuracy as quickly as possible and respond within a reasonable period of time.

13.9 The provisions of the German Civil Code shall apply to the contractual relationship between the supplier and SYSTEM S&P. The provisions of the German Commercial Code (HGB) regarding the immediate obligation to inspect shall be excluded.

## **14 Miscellaneous**

14.1 These General Terms and Conditions and all legal relationships between the parties are subject to the law of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).

14.2 The place of performance and exclusive place of jurisdiction for all disputes arising from this contract is Kirchberg an der Jagst (Ellwangen an der Jagst Magistrates' Court), unless otherwise stated in the order confirmation.

14.3 In the case of foreign orders, all disputes arising from the contract shall be settled, at the discretion of SYSTEM S&P, to the exclusion of ordinary legal proceedings, in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce (place of arbitration: Heilbronn). The German text of the terms and conditions shall be authoritative for these decisions. In all other respects, the law of the Federal Republic of Germany shall apply. This law shall only be invoked if SYSTEM S&P expressly requests it. The arbitral tribunal shall consist of two arbitrators to be appointed by the contracting parties; the chairperson shall be appointed by these two arbitrators. If they cannot agree on the arbitrator, the arbitrator shall be appointed by the President of the Regional Court of Stuttgart.

14.4 All agreements made between the parties for the purpose of executing this contract are set out in writing in this contract.

14.5 If the parties enter into additional written agreements, the provisions of these terms and conditions shall continue to apply unless they have been directly superseded by a separate agreement.

14.6 Our company regularly checks your creditworthiness when concluding contracts and in certain cases where there is a legitimate interest. To this end, we work together with Creditreform (Creditreform Heilbronn Scharlach KG, Ferdinand-Braun-Str. 3, 74074 Heilbronn), from whom we obtain the necessary data. For this purpose, we transmit your name and your

Contact details for Creditreform. Further information on data processing at Creditreform can be found in the detailed Creditreform information sheet in accordance with Art. 14 EU GDPR or at [www.creditreform-heilbronn.de/eu-dsgvo](http://www.creditreform-heilbronn.de/eu-dsgvo)

14.7 Should individual provisions of this contract be or become invalid or contain a loophole, the remaining provisions shall remain unaffected. The parties undertake to replace the invalid provision with a legally permissible provision that comes as close as possible to the economic purpose of the invalid provision or fills this loophole.

14.8 The General Consumer Arbitration Board of the Centre for Arbitration e.V., Straßburger Str. 8, 77694 Kehl, telephone: +49 7851 79579 40, fax: +49 7851 79579 41, Internet: [www.verbraucher-schlichter.de](http://www.verbraucher-schlichter.de), email: [mail@verbraucher-schlichter.de](mailto:mail@verbraucher-schlichter.de). We are generally willing to participate in dispute resolution proceedings in accordance with §36 VSBG at the aforementioned arbitration board.