

General Sales Terms and Conditions

November 2024



I. Scope

All sales of goods ("Goods") and/or services ("Services") by Ebner Furnaces, Inc. ("EBNER") are made subject to these General Sales Terms and Conditions. These General Sales Terms and Conditions also apply to all future sales of Goods and/or Services, in particular to spare parts orders. EBNER objects to and is not bound by any term or condition of the party purchasing Goods and/or Services' ("Purchaser") offer, expression of acceptance, confirmation or any other communication which is different from, inconsistent with, or in addition to EBNER's General Sales Terms and Conditions and any such terms and conditions proposed by Purchaser are hereby expressly rejected. EBNER's shipments of Goods or performance of Service shall not constitute acceptance of any provision of Purchaser's offer, expression of acceptance, confirmation or any other communication from Purchaser to EBNER which is different from, inconsistent with or in addition to the terms and conditions hereof.

II. Scope of Goods and Services

The scope of Goods and Services consists only of those Goods and Services expressly specified in the purchase order/contract (the "Purchase Order") and agreed to in writing by EBNER. Unless agreed otherwise, especially the following items are excluded from EBNER's scope of Goods and Services:

- building where the Goods will be installed
- foundations and anchor bolts
- all piping for supplies, connections and disposal
- cable trenches and connecting cables outside the scope of supply of EBNER
- laying cables and piping and the relevant equipment
- trench and pit covers
- charging baskets and frames
- platforms, stairs, railings and protective grids
- cranes, lifting platforms, transport equipment, scaffolding, forklifts and other work assistive devices
- unloading and proper storage of Goods until the time of installation
- tools, accessories, consumables and utilities required for installation, commissioning and operation
- air conditioning in particular for control rooms
- instruction/training of Purchaser's personnel
- installation and commissioning
- supplies and services related to local standards, norms and special regulations
- obtaining the necessary approvals from authorities for installation, commissioning and operation of the Goods

The supplies, services and contributions mentioned above shall be provided by the Purchaser at its cost in

due time and in the required quality and quantity.

III. Prices

The prices quoted in the proposal submitted by EBNER and stated in the Purchase Order do not include any Goods, supplies, services or obligations that are not specifically mentioned within the scope of Goods and Services of EBNER. The Purchaser shall be responsible for and pay all amounts, including, without limitation, taxes, charges, fees, customs, and/or duties (collectively, the "Taxes") in connection with the performance of the Purchase Order. In the event any Taxes are imposed upon EBNER, the Purchaser shall pay such Taxes and shall indemnify and hold EBNER harmless from such Taxes.

Any consequences resulting from changes in law or regulations or new laws or regulations enacted after the date of EBNER's offer shall be borne by the Purchaser. In case of import restrictions imposed by public authorities, such as but not limited to import duties, tariffs or taxes the prices shall be adapted accordingly.

IV. Payment

Payment for the Goods and/or Services shall be made in accordance with the terms set forth in the Purchaser Order. Payments are made when they have been actually received and credited to EBNER's bank account. Purchaser shall bear risk with regard to any and all payments made under the Purchase Order. Purchaser shall bear responsibility for all bank fees with the sole exception of bank fees charged to EBNER by the bank entrusted by EBNER. Any and all payments made by Purchaser shall be net, without deduction of any Taxes. If milestone payments have been agreed (e.g. payment installment is due upon start-up of the equipment or upon acceptance), the Purchaser shall be obliged to pay such installment at the latest within 1 month from the relevant scheduled milestone date agreed in the Purchase Order in case such milestone is delayed for reasons outside the responsibility of EBNER. Licenses for application software covered by the Purchase Order and the license code for permanent operation of the Goods will not be handed over to the Purchaser until the Purchase Order price has been fully paid. Purchaser shall not suspend or withhold payments hereunder nor delay any payments beyond the dates set forth in the Purchaser Order. Purchaser shall not be entitled to set off any payments hereunder. If the Purchaser is in delay with its payment obligations or is late in providing payment securities such as bank guarantees, letters of credit etc., EBNER at its option may

- a) demand performance of the Purchase Order and
- i) postpone the performance of its own obligations until the outstanding payments and other obligations of the

Purchaser are fulfilled,
ii) extend the delivery schedule appropriately, and
iii) impose interest on late payments at the highest rate permitted according to law, however not less than 8% p.a., or
b) if Purchaser's delay exceeds 30 days, terminate the Purchase Order in whole or in part and the Purchaser shall indemnify and hold EBNER harmless for all losses, costs, damages and expenses incurred by EBNER. In the event of termination, Purchaser shall return any and all Goods to EBNER at Purchaser's sole cost and expense.

Title to the Goods shall remain with EBNER until EBNER has received any and all amounts payable under the Purchase Order.

V. Delivery and Completion Period

Unless otherwise agreed to in writing, EBNER's performance shall begin on the latest of: i) the date on which the Purchase Order is signed by both parties; ii) the date on which all open technical matters have been clarified by the Purchaser to the satisfaction of EBNER; or iii) the date on which EBNER has received the initial payment (security deposit or otherwise) to be provided by the Purchaser in accordance with the Purchaser Order.

The date of delivery is Ex-Works and shall be deemed fulfilled upon readiness for shipment of the Goods, even in cases where the contract price includes transport and also where EBNER organizes the transport. If the equipment is ready for shipment but cannot be delivered for reasons beyond EBNER's control, delivery shall be deemed effected on the date Purchaser is notified the Goods are ready for shipping and any payments due hereunder shall become due on such date. In such case, risk of loss and damage shall pass to the Purchaser on such date and all costs for storage, preservation, guarding and insurance shall be borne by the Purchaser. EBNER shall be relieved of its obligations to perform the contract on time, if a delay occurs for which EBNER is not solely responsible or if EBNER is prevented due to a force majeure event, including, without limitation, social conflict, non-availability of means of transportation, acts of government, energy industry measures, war, civil disturbances, terrorism, epidemics and pandemics, boycott, explosions, cyberattacks, natural calamities, and such other events that cannot reasonably be prevented by EBNER. This also applies when sub-contractors of EBNER are affected by such events. Notwithstanding the foregoing, in case the security or health situation in the country where the Equipment or any part thereof will be manufactured, assembled or installed is, in the opinion of EBNER or any of its sub suppliers, not or no longer acceptable for EBNER's or its sub supplier's personnel, EBNER shall have the right to suspend the further execution of the work and postpone the delegation of personnel and/or withdraw personnel from the site, and such circumstances shall be considered as an event of "Force Majeure" as well.

If such delays last for longer than 6 months EBNER may terminate the Purchase Order and, notwithstanding, the Purchaser shall remain obligated to pay for any Goods

produced or in the process of fabrication and for any Services provided by EBNER.

VI. Transportation and Insurance

All deliveries are Ex-Works EBNER's facility, freight prepaid. The charge for freight will be included in the total sale price for Goods in the Purchase Order and, upon Purchaser's request, will be separately set forth in the invoice. Risk of loss or damage in transit shall be borne by Purchaser. In the event EBNER transports Goods to Purchaser's facilities using private carriers, loss and damage claims shall be made directly with carrier. In absence of written shipping instructions from Purchaser, EBNER shall use its own discretion in choice of carrier and method of loading and packing. Unless otherwise agreed to in writing by the parties, EBNER has no obligation to obtain insurance for Purchaser covering Goods in transit to Purchaser. If Purchaser requires a means of transportation other than that selected by EBNER, any extra costs incurred by reason of using such other means shall be borne by Purchaser.

VII. Technical Data and Drawings

Weights, dimensions, consumption figures, production capacity and all technical data set forth in catalogues, brochures or advertisements are approximate values only and may not be relied upon by Purchaser or construed against EBNER. EBNER reserves the right to make minor changes or modifications to the Goods or to provide any alternative materials.

VIII. Installation and Commissioning

If the scope of Services includes installation on site the Purchaser shall fully co-operate with EBNER so that the installation and commissioning can be carried out under the best possible and efficient conditions. The Purchaser shall immediately inspect the Goods delivered to ensure they are complete and in good condition. The Purchaser shall transport the Goods at its expense to the installation area or store it in a covered and well-sheltered area, so that the Goods are maintained in good condition until installation. The proper guarding, storage and insurance against fire, accident, and/or theft of the Goods shall be provided by the Purchaser at its sole cost and risk. Further, the Purchaser shall take care that all Goods are presented to EBNER's personnel in the sequence of installation in good condition. The Purchaser shall ensure that no Service shall be carried out in unsanitary or dangerous conditions and that EBNER's personnel is provided, free of charge, with suitable accommodations and food and that appropriate medical assistance is available on site. Prior to the start of the work at site, the Purchaser shall inform EBNER in writing and with proper documentation of specific hazards on the site and shall provide the EBNER staff with comprehensive support in the elaboration of the specific risk analysis on site. At EBNER's request, the Purchaser shall provide, free of charge, the required materials, means of transport, energy and power sources, fuel, utilities, consumables and personnel necessary to complete the Services. If the Purchaser is responsible for installation of the

Goods and EBNER is only responsible for supervision of installation, the costs and risks of the installation work are to be borne by the Purchaser. If, during the installation or commissioning period, idle times occur for EBNER's personnel due to circumstances outside EBNER's control, and, as a result, additional work days or hours, travel to and from the site, and/or accommodations are necessary, the Purchaser shall pay these additional costs at EBNER's hourly rates applicable at the time of such idle times.

IX. Performance Test and Acceptance

If a performance test/acceptance test is expressly stipulated in the Purchase Order, such test will take place within 10 days of the end of commissioning or when readiness for acceptance has been declared by EBNER, according to the terms and conditions stipulated in the Purchase Order. Acceptance shall be deemed achieved upon successful completion of the performance test. If this proof is given by EBNER, the Purchaser shall not have the right to demand further tests. If a performance test/acceptance test cannot take place or is not successful for reasons beyond EBNER's control, the Goods shall be deemed accepted at the end of commissioning or 6 months after delivery or readiness for shipment, whichever is earlier. Upon acceptance, the Purchaser and EBNER will sign an acceptance document. Minor defects shall not entitle the Purchaser to withhold acceptance. Unless expressly agreed otherwise in writing, the work and travel time of the EBNER staff delegated to Purchaser's site shall be paid by the Purchaser at EBNER's hourly rates applicable at the time of the provision of such Services. All costs incurred during commissioning, testing and operation of the Goods shall be borne by the Purchaser. The Purchaser shall note operate the Goods until acceptance has been completed. If the Purchaser operates the Goods without acceptance, it is at the Purchaser's own risk and the Goods are automatically deemed accepted and all contractual obligations of the Purchaser shall become due immediately. Purchaser further agrees to indemnify and hold EBNER harmless from any and all liability resulting from a breach of the foregoing obligation.

X. Warranty

EBNER warrants that upon delivery the Goods will be free from defects resulting from faulty material or bad workmanship. The warranty period for the Goods shall be 12 months from delivery. For bought-in items, in particular electric components, the warranty granted to the Purchaser is limited to the warranty given by the manufacturer or supplier. Goods and/or components of the Goods subject to wear and tear are excluded from the warranty. If the wear and tear components have not been specified in the proposal or contract, they are considered to be parts subject to wear and tear recognized as such in the relevant industrial. Any defects in the Goods shall be notified to EBNER in writing immediately, otherwise all claims for damages and warranty shall be forfeited. The Purchaser must provide proof that the defect already existed at the time of delivery; the legal reversal of the burden of proof is

excluded. If a defect is due to faulty material or bad workmanship, defective parts will be repaired free of charge or replaced at EBNER's discretion. Defective components that have been replaced shall be made available to EBNER and become EBNER's property. In case of defects the Purchaser shall take immediate measures to prevent worsening of damage. The Purchaser shall grant EBNER the opportunity to correct defects and grant access to the Goods at all times and allow a reasonable time limit to rectify a defect. EBNER shall in no event be liable for defects resulting from improper use or operation or maintenance of the Goods not in accordance with EBNER's instructions and manuals, any alterations or modifications made by the Purchaser or third parties without the prior written consent of EBNER, improper storage or handling, installation or commissioning performed without the supervision of EBNER's personnel and any reasons not attributable to EBNER. The warranty provisions contained herein shall be deemed null and void and EBNER shall have no further obligations to Purchaser in the event that Purchaser fails to make full and timely payment of any payment due for Goods or Services, including, but not limited to, payment due for services and labor performed or parts provided by EBNER. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. NO AFFIRMATION OF EBNER, BY WORDS OR ACTION, OTHER THAN AS SET FORTH IN THIS PARAGRAPH OR ANY WRITTEN WARRANTY FURNISHED BY EBNER, NOR ANY ADDITIONAL WARRANTIES, EXPRESS OR IMPLIED, MADE BY EBNER TO PURCHASERS OF THE GOODS SHALL CONSTITUTE A WARRANTY HEREUNDER.

XI. Software

To the extent software is included in purchase of Goods and/or Services hereunder, the Purchaser will be granted a non-exclusive, non-transferrable right to use the software including the associated documentation only for the purposes of operation of the Goods. Use of the software on more than one system is prohibited. The Purchaser is not entitled to copy, reproduce, adapt, modify or translate the software or make it available to third parties. All other rights to the software and documentation and the source code will remain the exclusive property of EBNER or the software supplier. For bought-in software and standard software, the provisions of the relevant end-user license agreements shall apply and the Purchaser shall assume all relevant rights and obligations resulting therefrom. Any other claims against EBNER are expressly excluded.

XII. Limitation of Liability

IN NO EVENT SHALL EBNER BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT OR PUNITIVE DAMAGES TO ANY PERSON, WHETHER BASED UPON BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, TORT, BREACH OF CONTRACT OR ANY OTHER

THEORY, REGARDLESS OF WHETHER THE REPLACEMENT OR REFUND REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR FOR ANY OTHER REASON WHATSOEVER. "CONSEQUENTIAL DAMAGES" FOR PURPOSES HEREOF SHALL INCLUDE, WITHOUT LIMITATION, LOSS OF USE, INCOME OR PROFIT, OR LOSSES SUSTAINED AS THE RESULT OF INJURY (INCLUDING DEATH) TO ANY PERSON OR LOSS OR DAMAGE TO PROPERTY (INCLUDING, WITHOUT LIMITATION, PROPERTY HANDLED OR PROCESSED BY THE USE OF THE GOODS). The overall liability of EBNER under or in connection with the contract under whatever title, whether arising out of a breach of contract, tort (including but not limited to negligence) or by way of statute or otherwise, shall, in the aggregate, be limited to 10% of the amounts paid to EBNER by Purchaser. The Purchaser must provide evidence that EBNER is at fault; the legal reversal of the burden of proof is excluded. The exclusions and limitations of liability shall apply to all of EBNER's liabilities arising out of or in connection with the Purchase Order, including, without limitation, any liability resulting from breach of guarantees and warranties. The exclusions and limitations of EBNER's liability shall apply to the fullest extent permitted by law and shall also apply for the benefit of EBNER's personnel, its affiliated companies, licensors and subcontractors. The rights and remedies of the Purchaser stipulated in the Purchase Agreement shall be the exclusive rights and remedies available to the Purchaser in lieu of all other rights and remedies expressed or implied by law.

XIII. Non-Disclosure

Purchaser agrees to keep Proprietary Information confidential and to use the Proprietary Information strictly in accordance with the Purchase Order and only for the purpose of operation and maintenance of the Goods. Under no circumstances is the Purchaser authorized to disclose or allow a third party access to the Proprietary Information (which shall remain EBNER's exclusive property), nor shall the Purchaser be entitled to reproduce such Proprietary Information without prior written permission from EBNER. In case of violation of Purchaser's obligations hereunder, EBNER shall, in addition to any other rights, be entitled to equitable and injunctive relief. As used herein, "Proprietary Information" shall mean all information disclosed to the Purchaser by EBNER or any affiliated company of EBNER in any medium (including, without limitation, electronically), orally, by samples or in writing. The provisions shall apply retroactively to any Proprietary Information that may have been disclosed in connection with proposals, discussions and negotiations prior to the date of the Purchase Order.

XIV. Indemnification

Purchaser agrees to indemnify and hold EBNER harmless from and against all claims, demands, or actions regardless of legal theory, including the costs and expenses incurred in the defense thereof, brought against EBNER, whether based on an act, omission or

negligence of Purchaser, or its agents, employees or customers, in connection with Purchaser's or its customer's subsequent sale, consumption or use of the Goods, or upon any defect in the Goods caused by Purchaser, its agents, employees or customers.

XV. Solvency of Purchaser

Purchaser represents that by placing its order it hereby acknowledges that it is in good standing and not insolvent. In the event that Purchaser becomes insolvent before delivery of Goods, it will promptly notify EBNER. Failure to promptly notify EBNER shall constitute a written reaffirmation of Purchaser's solvency at the time of delivery. EBNER may, at its option, suspend performance if in its reasonable opinion the credit of Purchaser becomes impaired ("Financial Impairment") until such time as EBNER has received full payment or satisfactory security for payment for deliveries made and EBNER is satisfied as to Purchaser's credit for future deliveries. EBNER reserves the right, upon written notice to Purchaser, to cancel any order or require full or partial payment or adequate assurance of performance from Purchaser, such as an irrevocable letter of credit, deposit, advance payment, and/or other sureties or guaranties in the event of: (i) Financial Impairment, (ii) Purchaser's insolvency, (iii) the filing of a voluntary petition in bankruptcy by Purchaser, (iv) the filing of an involuntary petition in bankruptcy against Purchaser, (v) the appointment of a receiver or trustee for Purchaser, or (vi) the execution by Purchaser of an assignment for the benefit of creditors.

XVI. Assignment

Neither these General Terms of Sale nor any Purchase Order which are subject to these General Terms of Sale may be assigned in whole or in part by Purchaser, without the prior written consent of EBNER.

XVII. Setoff

Purchaser shall not be entitled to set-off any amount owed by Purchaser in connection with any Purchase Order or these General Terms of Sale against any amount owed to Purchaser by EBNER.

XVIII. Waiver of Terms and Conditions

The failure of EBNER in any one or more instances to insist upon performance of any of the terms and conditions contained herein, or to exercise any right or privilege hereunder, shall not be construed as a waiver of any EBNER's rights or privileges hereunder.

XIX. Compliance with export control and customs regulations

Performance of the contract on the part of EBNER shall be subject to Purchaser's compliance with all laws including anti-corruption laws and U.S. import and export laws and regulations including but not limited to U.S. Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR), as well as all import and export regulations by the United States Department of State or Commerce or other Agency of the United States which regulate that certain

goods, services, or information shall not be re-sold, transferred, re-exported or disposed of in other than the country of ultimate destination without the prior approval of the United States Department of State or, whichever U.S. Agency is applicable otherwise EBNER shall be entitled to terminate the contract in whole or in part. The contract may also be subject to EU and other applicable countries' anti-corruption and export/import rules and regulations. If the Purchaser breaches any such foreign trade regulations EBNER shall be entitled to refuse to fulfill the contract and / or to terminate the contract concluded with the Purchaser for good cause with immediate effect and EBNER shall be entitled to demand a contractual penalty of 5% of the contract price from the Purchaser. Upon request, the Purchaser shall be obliged to provide EBNER with all information and documents which are required for compliance with foreign trade regulations or which are requested by authorities in the respect. These obligations may include, in particular, information on the final recipient as well as the (final) place of destination and the intended use of the goods or services of EBNER. The Purchaser shall fully indemnify EBNER against all claims asserted by authorities or other third parties against EBNER due to the Purchaser's non-compliance with export control obligations and the Purchaser undertakes to compensate EBNER for all damages and expenses incurred in this connection. Any liability of EBNER for damages in connection with or due to the refusal to fulfill the contract or due to a termination of the contract by EBNER shall be excluded. The obligations under this clause shall survive the termination or expiration of the contract.

XX. Arbitration and Applicable Law

Any dispute, controversy or claim arising out of or relating to the Purchase Order, these General Sales Terms and Conditions, including the formation, interpretation, breach, or termination thereof, shall be finally settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgement upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. The arbitration tribunal shall be composed of three arbitrators, the place of arbitration shall be Cleveland, Ohio and the language of the arbitration shall be English. The Purchase Order shall be governed by the laws of the State of Ohio. Unless otherwise agreed by the parties or required by law, the parties and the Arbitration Panel shall maintain the confidentiality of all documents, communications, proceedings and awards provided, produced, or exchanged pursuant to an arbitration conducted under this clause.

XX. Miscellaneous

These General Sales Terms and Conditions shall be deemed incorporated into the Purchase Order as if fully restated therein.

In the event that any provision of these General Sales Terms and Conditions or the Purchase Order are deemed invalid, illegal, void or unenforceable, such provision shall be deemed to be separable from the

other provisions, which shall remain binding. The parties shall replace the invalid, illegal, void or unenforceable provision by a new but valid, legally permitted and enforceable provision which comes as close as possible to the original intentions of the parties.