

## **§ 1 Scope**

1. These General Conditions of Purchase (PlanET's AEB in German) apply to all sales contracts, contracts for works, contracts of labour and material and service contracts that the PlanET Biogastechnik GmbH („PlanET“) concludes with contractors, these being entrepreneurs, legal persons governed by public law or public law corporations or special funds under public law. The most current version of these General Conditions of Purchase shall also apply to all future contracts between PlanET and the contractor.
2. These General Conditions of Purchase shall apply exclusively. Deviating business conditions or amendments made by the contractor or third parties do not apply, even if PlanET does not explicitly contradict them. The same applies when PlanET refers to letters with General Terms and Conditions (AGB in German) of the contractor or third parties. The same applies when PlanET accepts goods or services from the contractor unconditionally.
3. Individually agreed terms in a given case between PlanET and the contractor take priority over these General Conditions of Purchase. They must satisfy the requirement of the written form or must be confirmed by PlanET in text format (in writing or by email/fax).

## **§ 2 Conclusion of Contract / Tender Documents**

1. Orders placed by PlanET, if set out in writing, are binding when the contractor does not contradict the order within seven work days after the receipt of the order. Orders that are placed by the software used by PlanET are valid even when they are not signed. Orders that have not been placed in a written form need a confirmation in text format. This does not apply for orders with a goods value of below 1,000.00 euros.
2. If the orders include obvious errors and/or are incomplete, the contractor is obliged to inform PlanET about this. Otherwise, the contract will be seen as concluded.
3. PlanET is entitled to cancel the order in writing, if the contractor does not confirm in writing the acceptance of the order within four weeks. The decisive date is the receipt of the declaration of acceptance at PlanET. Order confirmations, which are received after this deadline form a new offer of the contractor and need the acceptance confirmation by PlanET in text format.
4. PlanET reserves the proprietary right and the copyright on the order documentation, especially, on the figures, drawings, plans, calculations, instructions and contractual documentation. The contractor is obliged to keep all documents confidential and to use them only for the agreed purpose. The secrecy obligation also applies without limitation after the cessation of the contract. The obligation of secrecy ends when PlanET has generally made the documents publicly accessible. Objects that PlanET provides to the contractor remain the property of PlanET. PlanET reserves the right to reclaim the documents and objects.

## **§ 3 Delivery / Performance / Delay in Delivery / Liquidated Damages**

### **1. Place of Performance / Passing of the Risk / Default in Acceptance**

- 1.1. If a delivery of goods is owed, it shall in default of a special agreement as per DAP in compliance with Incoterms® 2010 (Incoterms is a registered trademark of the International Chamber of Commerce (ICC)) take place in the place specified in the order (place of performance). If no place is

specified, the delivery shall be sent to the registered office of PlanET. The contractor shall inform the relevant contact person about the delivery, the acceptance shall be ensured and the local conditions shall be considered. On delivery, the contractor shall send a from the delivery separate dispatch note. Each delivery shall be accompanied by a delivery note. It shall include the date of issue and dispatch, the content of the delivery including the item number and the quantity, as well as the order code assigned by PlanET. The invoice shall not be attached to the delivery. The contractor shall take back the packaging at the place of performance at their own cost if requested by PlanET. If an assembly is owed, the place of performance shall be the place where the installation has to be carried out.

1.2. The delivery time and the time of manufacture specified in the order are binding. If the delivery time is not stated in the order and has not been agreed to otherwise, it shall be 2 weeks from conclusion of the contract. The contractor shall inform PlanET immediately in writing when the agreed time of delivery and manufacture cannot be adhered to – for whatever reason. If the contractor delivers before the agreed date it shall be PlanET's decision to accept or to refuse the delivery. In the case of a refusal, the contractor shall bear the cost of the re-delivery.

1.3. The risk of accidental loss and deterioration of the goods or of the plant shall pass to PlanET with the handing-over or acceptance at the place of performance. If PlanET pays without reservation this shall not form an acceptance or approval.

1.4. Partial deliveries shall only be allowed if PlanET has expressly agreed to them.

1.5. The invoice shall include the order number, as well as the item number and if necessary the project number and shall be sent separately. If important details required for processing are missing, a delay shall not be the fault of PlanET.

1.6. The contractor shall inform himself about possible licensing obligations on the basis of the legislation of the Federal Republic of Germany and the European Union, as well as of the country in which the relevant place of performance shall be and shall inform PlanET in a timely manner. They shall forward the information during the ordering procedure. Furthermore, the contractor is obliged to keep himself informed about possible trade prohibitions and is obliged to forward this information to PlanET. Tendering performance at the place of performance, the contractor has to ensure that the applicable regulations are adhered to.

1.7. All works and deliveries shall be accompanied by the relevant documentation, if necessary.

1.8. If the contractor fails to perform their service or fails to meet the agreed delivery time or if he falls into an event of default, the rights of PlanET - in particular the right to rescission and compensation – shall be determined in accordance with the statutory provisions. The following regulation shall remain unaffected.

1.9. If the Contractor is in an event of default, PlanET may demand – in addition to further legal claims - a lump-sum replacement of their default damages in the amount of 1% of the net price of the goods per completed calendar week, but no more than 5% of the net price of the delayed goods. PlanET reserves the right to prove that a higher loss has occurred. The contractor may reserve the right to prove that no or a significantly lower loss has occurred.

## 2. Claims for Defects

2.1. PlanET shall only be able to claim for defects on a delivery when their obligation to examine and to give notice of defects has been complied with immediately and properly. After delivery, PlanET

shall immediately examine the goods; as far as this is feasible in terms of a proper business routine. PlanET shall immediately, at the latest within 14 calendar days after the receipt of the delivery notify in writing noticeable defects. The standard of the examination shall be an external assessment on arrival of the goods as well as a random quality check. PlanET shall immediately, at the latest within 14 calendar days after discovery of the defect, report the defect which could not be detected within the course of this examination and which occurred later. If PlanET does not send this notification, the goods shall be deemed in view of the respective defect as approved. The construction of a plant shall be subject to statutory regulations.

2.2. The contractor shall provide the deliveries and performances in compliance with the generally accepted rules of technology and considering the applicable set of rules, especially the VOB, VDE, VDI and the Machinery Guideline.

2.3. In case of justified notice of defects, the contractor shall be liable for supplementary performance (PlanET shall be able to decide either on subsequent improvement or replacement), if this is deemed acceptable to them. If the contractor does not comply with their obligation within a reasonable time period or the supplementary performance fails, PlanET shall be entitled to reduce the purchase price or to withdraw from the contract. If there is an imminent danger or another need for urgency, PlanET shall be entitled to immediately remediate the defect at the contractor's expense themselves or by a third party. For further claims especially reimbursement of expenses or claims for damages due to defects or consequential damages, the statutory regulations shall apply.

2.4. If a defect occurs, the contractor shall bear the expenses required for the purpose of examination and supplementary performance, especially, transport, travel, labour and material expenses. If PlanET's request for removal of defects turns out to be unjustified, the contractor shall be able to get the incurred costs reimbursed from PlanET, if PlanET recognized or recklessly did not recognize that no defect existed.

2.5. Claims for defects generally fall under the statute of limitations 24 months after commissioning, however, at the latest within 36 month after delivery. If the delivered good is a building or an object which in accordance with its usual purpose is used for a building and its deficiency has caused the defect of the building (building material), the term of limitation shall be five years after passage of risk (§ 438 subparagraph 1 No. 2 BGB (German Civil Code)). If the performance to be provided by the contractor is a building, a part of a building, or a plant, whose success depends on planning and monitoring services, the term of limitation shall be five years after the passage of the risk (§ 634a subparagraph 1 No. 2 BGB).

2.6. If the performance is provided on the basis of a contract for work and materials, the above mentioned regulations shall apply with due regard to § 651 BGB.

2.7. If a service is owed, the legal consequence shall in the case of an infringement of the obligations of the service agreement, follow the statutory regulations notwithstanding the above mentioned subparagraphs.

### 3. Producer's Liability / Infringement to Third Parties

3.1. In the case of a defect or a defect to a product, the contractor shall keep PlanET indemnified against claims from third parties to the extent that the cause is set in their territory and organization sector and they are not liable themselves in relation to third parties. If PlanET has an obligation to recall due to the product defect, the contractor shall bear all associated costs and has to indemnify PlanET and keep PlanET indemnified from and against these. PlanET shall notify the contractor about content and scope. Further statutory claims shall remain unaffected.

3.2. The contractor shall cover and maintain a product liability insurance with a lump sum amount of at least 10 million euros per personal / property damage.

3.3. The contractor is obliged to consider third party rights, especially intellectual property rights. In case of an infringement, they shall indemnify PlanET and keep PlanET indemnified from and against third party claims for damages.

#### 4. Safety at Work

The contractor shall make sure that their employees or other persons assigned by them abide by all applicable regulations for safety at work and accident prevention. The same applies to the guidelines in the applicable laws and ordinances referred to.

The contractor shall urge the personnel they assigned to the job to wear the specified personal protective equipment and to follow the existing instructions issued by the coordinator responsible for safety and health protection. He/she shall ensure that the site facilities comply with the applicable regulations. The contractor is obliged to provide appropriate evidence, if requested by PlanET to do so.

#### **§ 4 Force Majeure**

1. In the event of Force Majeure, PlanET shall be entitled to refuse the acceptance of the delivery or the performance of a work for the duration of the hindrance plus a reasonable start-up time. If the event of Force Majeure is not only temporary, PlanET shall be allowed to withdraw completely or partially from the part of the contract which has not been fulfilled, as far as this is deemed reasonable for the contractor. Force Majeure is also equivalent to strike, lockout or unexpected, unavoidable circumstances, e.g. operating disruption or transport delays or interruptions through no fault of PlanET, lack of raw materials or energy through no fault of PlanET, which render the timely acceptance or approval impossible despite reasonable efforts.

2. If the contractor according to the contract solely owes services (§ 611 BGB), § 4 subparagraph 1 of these General Conditions of Purchase shall apply provided that the parties shall have the right of cancellation instead of the right of rescission.

3. PlanET shall notify the contractor immediately, when a case of Force Majeure in the sense of § 4 subparagraph 1 of these General Conditions of Purchase as explained above, occurs and shall seek to keep any impairment on the contractor as small as possible.

#### **§ 5 Terms of Payment**

1. The prices shall apply to the scope of performance and delivery specified in the order and are binding, unless otherwise agreed. The prices are plus the current statutory VAT in the legally fixed rate in euros. They include all performances and ancillary services of the seller.

2. Unless stipulated otherwise in individual contracts, the invoicing amounts shall be paid within 20 bank working days (Monday –Friday) after receipt of the invoice and delivery respectively acceptance at a discount of 3 % or within 30 bank working days net. The decisive date for a money transfer is the receipt of the transfer order at the bank of PlanET. Delays in execution caused by the bank shall not be counted against PlanET.

3. If PlanET is in default with payment, the contractor can require default interest rates of 5 percentage points above the base rate (§ 247 BGB).

4. If after the contract has been concluded, it becomes apparent that PlanET's claim on fulfilment or supplementary performance against the contractor is at risk due to the contractor's poor ability to perform (e.g. by petition for bankruptcy), PlanET shall be entitled to withhold 10% of the final accounts sum as security until the term of limitation for the rights arising from product defects has expired. If the contractor does not provide the required fulfilment or supplementary performance within the reasonable period granted to it, PlanET shall be entitled to withdraw from the contract without further fixing of a time limit.

5. Offset rights and/or rights of retention are only due to the contractor when their counterclaims have been legally established or accepted by PlanET in writing. In addition, the contractor will only have the right of retention when their counterclaim is based on the same contractual relationship.

6. If PlanET has to pay a down payment of more than 5,000 euros, the contractor shall, in advance, provide PlanET with a down payment guarantee from the contractor's bank for the down payment value for the period until a performance of an appropriate equivalent amount has been delivered.

## **§ 6 Reservation of Title**

1. The contractor's reservations of title shall only apply, so far as they refer to PlanET's obligation to pay for the respective products on which the contractor reserves the proprietary rights. Especially, an extended or prolonged reservation of title are not allowed.

The goods are to be assigned to PlanET unconditionally and without regard to the payment of the price. If PlanET however accepts in an individual case an offer of the seller for assignment which depends on the payment of the purchase price, the seller's reservation of title shall expire, at the latest with the payment of the purchase price for the goods delivered. PlanET shall in the regular course of business remain entitled to resell the goods under advance assignment of the requirements arising from this, also before the payment of the purchase price (alternative validity of the simple reservation of title extended to this resale). With this all other forms of the reservation of title are excluded, especially, the extended and forwarded reservation of title and the reservation of title which is extended to the further processing.

2. Processing and transformation shall always be done for PlanET as manufacturer, however, without any obligation for PlanET. PlanET automatically acquires (partial) ownership of the object which has been newly manufactured from the objects delivered, namely in the percentage of the value of the delivered object to the value of the newly manufactured object, whereby the date of the completion of the manufacture shall be decisive.

## **§ 7 Change of Contractual Conditions**

PlanET can change the contractual conditions after the conclusion of the contract, if due to unpredictable changes that have not been caused by PlanET and that cannot be controlled by PlanET, the balance between performance and counter-performance, which existed at the date of the contract conclusion is disturbed, to a not inconsiderable extent and this distortion requires an adjustment of the contractual provisions, because the parties cannot continue or fulfill the contract without a change or would only be able to do this with difficulty. An unpredictable distortion especially comes into consideration, when a contractual clause is declared to be invalid due to a change of case law, or when applicable legal standards or regulatory actions which are decisive for the provision of the contractual performances change in a way that an adjustment of the contractual provisions is necessary.

## **§ 8 Final Conditions**

1. Place of jurisdiction for all disputes and types of procedure from this legal relationship, including its effectiveness, shall be Vreden, so far as the contractor is a merchant, public law entity or a special fund under public law and unless otherwise agreed. PlanET shall be entitled also to file a suit at the place of the contractor's registered office.
2. All rights and obligations from the contracts concluded with PlanET shall exclusively be governed by the laws of the Federal Republic of Germany as applicable between German domestic parties with exclusion of the UN-Convention on Contract for the International Sale of Goods (CISG).
3. Additional oral agreements and subsequent supplements shall only be valid when they are confirmed by PlanET in writing. The same shall apply to other declarations relevant in law. The requirement of the written form can only be waived in writing.
4. In case any provision in these general business conditions is invalid, the validity of the other provisions shall not be affected