



General Terms and Conditions (v2)

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1. General

(1) UrbanGold ("**Seller**") hereby offers to sell and deliver its products and services to You ("**Buyer**") in accordance with the terms and conditions hereof. These General Terms and Conditions shall be applied in the sale and / or supply of any products and / or services between Seller and Buyer, even if any offer, order acknowledgement or other similar document refer to any other terms and conditions or contain different provisions than those of these General Terms and Conditions ("**GTC**"), and these GTC shall overrule any such other provisions. Any of the Buyer's general terms and conditions which are referred to or relied upon by Buyer are hereby expressly objected to and shall have no effect. If these terms are not acceptable, Buyer must immediately notify Seller expressly and specifically. Buyer's order of products from Seller constitutes Buyer's consent to and acceptance of all terms and conditions contained herein.

(2) These GTC shall apply in accordance with the most recent version and to all subsequent transactions without any need to express reference thereto or agreement thereon at the conclusion of such transaction.

(3) By accepting Seller's products an/or d services, Buyer agrees to be bound by these GTC. Buyer further agrees that these GTC shall supersede any terms and conditions which may be printed on any purchase order form or other document submitted by Buyer to Seller.

2. Entire Agreement

(1) These General Terms and Conditions, as well as any order acknowledgment or agreement signed by Seller into which those are incorporated by reference (collectively, the "**Agreement**"), contain the entire and only agreement between the parties relating to the subject matter thereof. Any representation, affirmation of fact, and course of prior dealings, promises or conditions in connection therewith or trade customs not expressly incorporated in the Agreement shall not be binding on Seller. No waiver, consent, modification or change of terms herein shall bind either party unless agreed expressly in writing signed by both parties, and any such waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose for which it was given. Failure of Seller to object to provisions contained in any order or other document provided by Buyer shall neither be construed as a waiver of the Agreement or of the GTC nor as an acceptance of any provisions of any such order or other document. The rights and obligations contained herein shall inure to and be binding upon the parties, their legal representatives, successors and permitted assigns.

(2) Seller's offers are indicative, unless explicitly stated otherwise in each individual one of them, shall not be binding, in particular with reference to quantities, price and delivery time until any order made on their basis is expressly confirmed by Seller.

(3) Orders placed by Buyer are considered as accepted only once such orders have been confirmed by Seller in writing without any modifications. Should the Seller overlook to confirm the order in writing, but do so verbally or in telephone conversation and execute it thereafter, Seller's invoice shall be regarded as valid and timely confirmation.

3. Purchase Price and Taxes

(1) Seller's purchase prices are net cash amounts payable free of any deduction upon receipt of the invoice, unless other payment terms shall have been agreed specifically. Seller's price does not include taxes, VAT, duties, excise, charges, levies, stamp duties, charges for use of foreign currency or any other expenses of any kind whatsoever, which might be levied by governments and / or other authorities in or outside the Seller's country (jointly and severally "**Public Taxes**"). Payments of any such Public Taxes of any kind items in connection with the Contract are to be borne and paid by the Buyer in addition to the price quoted in the offers, order acknowledgements and / or contracts, unless other payment terms shall have been agreed specifically.

(2) Unless otherwise stated by Seller in a written acknowledgment issued to Buyer, prices, terms of payment and pricing policies, including handling charges, will be those set forth in Seller's offer or order acknowledgement.

(3) The amount of any present or future Public Taxes applicable to the sale, provision or use of the products sold hereunder shall be paid by the Buyer, or in lieu thereof the Buyer shall provide Seller with a tax-exemption certificate in the form acceptable by competent tax authorities.

(4) If, as a result of a change of law between the agreement date and the delivery date, additional or increased Public Taxes shall be payable, then Seller shall have the right to increase the purchase price accordingly. The same shall apply to any fees for examination and technical inspection, compliance control or support.

4. Delivery and Acceptance

(1) Unless there is a written agreement between the parties to the contrary, goods are delivered on a FCA - Free Carrier (place of production or storage) basis as per Incoterms. All services are deemed to be performed and delivered at the Seller's place of business in Leoben, Austria, unless expressly agreed otherwise. On-site supervision services (*Richtmeister*) shall be considered to be performed at the place of the supervised construction site.

(2) To the extent transportation is in the responsibility of Seller, the goods shall be transported reasonably insured and any costs arising therefrom shall be at the expense of the Buyer only, unless otherwise explicitly agreed by both Seller and Buyer in writing.

(3) The selection of the place of dispatch and the transport route and the means of transport shall, in the absence of any written arrangement dictating otherwise, be subject to Seller's reasonable discretion, whereby Seller shall be entitled to solicit the services of a postal service or a freight forwarder or a transportation company to arrange and/or perform such transport.

(4) If the Buyer provides the means of transport, then it shall be responsible for its availability on time. Seller shall immediately be informed of any delays. Any costs arising therefrom shall be at the expense of Buyer.

(5) All scheduled or quoted delivery dates agreed to by Seller are approximate and are based upon prompt receipt of all necessary information from the Buyer.

(6) Acceptance. Buyer shall examine all goods and services promptly upon delivery.

In case of a notice of defect the Buyer shall comply with the following procedures and deadlines:

- i. The notification shall be made by no later than the expiry of five (5) days after the delivery of the goods to the agreed destination or upon transfer of possession of the goods or upon performance of the services and transfer of their results (e.g. drawings, plans, concepts, etc.).
 - ii. In the event of an objection to a concealed defect which, despite a proper inspection was not detected and could not have been detected by proper inspection shall be notified within five (5) days of being discovered.
 - iii. Buyer's notice of defect shall notify Seller of any shortage or non-conformance in detail including to the extent possible explanation of the cause, and if rejection is intended, all grounds shall be specified.
 - iv. The detailed notice shall be delivered to Seller within the aforementioned deadlines in writing per mail, courier, email or via fax. Any notice by telephone conversation shall not be considered as made until followed by a written notice. The notice itself must clearly specify the kind and amount of the alleged defect.
 - v. The Buyer agrees to make the objected products available for inspection. Such inspection may be done by Seller or any expert Seller may have designated.
 - vi. Failure to give Seller such timely notice shall be deemed an unqualified acceptance by Buyer of the delivered products.
- (7) Any products or services for which objections shall not have been raised in accordance with the procedures and deadlines set out above shall be regarded as approved and accepted and no claims may be raised therefor.

5. Conditions of Technical Services on-site by employees or contractors of Seller

- (1) Seller's technical services are based on the following terms and conditions:
 - i. Buyer shall provide to Seller's personnel at no cost for Seller:
 - accommodation in adequate hotel single rooms European standard with air conditioning / heating, private bathroom/showers, breakfast;
 - free working lunch at site;
 - first aid medical care and treatment;
 - any kind of work permits or other government requirements for the on-site deployment of Seller's employees and contractors.
 - ii. The daily rates for any work by Seller are based on a working time of 48 hours per week, i.e. Monday to Saturday at 8 hours per day during normal daylight working hours ("**normal working day**" / "**man day**"). If the national law of the country where Seller's employees are deployed prohibits working for 48 hours per week, in order to comply with the law reduced weekly working hours are to be applied, but those should be no less than the maximum amount of weekly working hours legally permitted.
 - iii. Additional work on Buyer's request, performed on Sundays and Official Holidays in Buyer's and Seller's country per year or additional work on regular working days, will be paid by Buyer on the basis of the agreed daily rates plus the following surcharges:
 - 50 % extra on hourly rate for all overtime hours between 06:00 AM until 06:00 PM on normal working days.
 - 100 % extra on hourly rate for work between 06:00 PM until 06:00 AM ("night shift") and for work performed on Sundays and all public holidays observed in Austria and/or the place where the site is located as well as Christmas (two days), New Year (two days), Easter (two days) ("**Official Holidays**").
- (2) Seller's personnel's maximum duration of stay shall be two (2) months, i.e. after such time a two weeks leave has to be granted.
- (3) Seller's personnel shall not be obliged to work during the above mentioned Official Holidays. It shall, on such occasions, be allowed to leave the site no later than two working days before the start of the above Official Holidays.
- (4) Stand-by and waiting time shall be treated like normal working days.
- (5) Both the Buyer and Seller shall each appoint one general site representative in good time prior to the start of erection and such representatives shall be fully authorized to act on their behalf for all matters related to erection and commissioning.
- (6) The actual working hours of Seller's technical personnel shall be recorded daily in "time sheets" which are to be signed by both site representatives at least once a week.

6. Payments

(1) Unless otherwise agreed, all invoices shall be due and payable within thirty (30) days from the date of invoice. Amounts past due shall accrue interest at the rate of 1% per month from the due date until paid in full. Seller reserves the right at any time to revoke any credit extended to Buyer because of Buyer's failure to pay for any goods or services within the due and payable period upon being invoiced or, in Seller's discretion, for any other lack of financial assurance. In such event, Seller may require that all subsequent deliveries be paid for in advance or concurrently upon delivery, e.g. per letter of credit or other bank guarantee. Seller may suspend any further deliveries or discontinue any of the work to be performed by Seller until such payment has been received. If delivery of goods or performance of services hereunder is delayed at Buyer's request or due to reasons under the responsibility of Buyer, payments shall be made based on the purchase price and the pro-rata the level of completion, i.e. pro-rata for any given mile-stone even it such mile-stone is not yet complete. Buyer shall be liable to Seller for the expenses for storing of the completed goods or delaying completion of the goods. Failure to furnish any such payment within ten (10) days after Seller's demand shall be, at the discretion of Seller, grounds for termination of the Agreement and in such event, Seller shall be entitled to receive payment pro-rata as described before and compensation for non-completion of the Agreement, especially also compensation for lost revenue and profits. In the event Seller cancels Buyer's order due to non-performance by Buyer, or if Buyer fails to purchase the total quantity specified in the order, Seller shall invoice Buyer for the price in effect at the time of the last delivery applicable to the quantity actually ordered.

(2) Payment of the purchase price and all other charges, especially for Public Taxes shall be in Euro, unless otherwise agreed to in writing by Seller. Even if Seller agreed to receive the payment in a currency other than Euro, the end fixed amount in Euro shall be taken as a basis for Buyer's payment and shall be calculated at the currency exchange rate effective at the day of money transfer by the Buyer. If the Seller received the amount lower than was originally stated in Euro because of currency exchange rate changes, Buyer shall compensate the difference.

(3) In the event of bankruptcy or insolvency of Buyer or in the event any proceeding is brought by or against Buyer under the bankruptcy or insolvency laws of any country or jurisdiction, Seller shall be entitled to cancel any order outstanding at any time during the period allowed for filing claims against the estate and shall receive reimbursement for its cancellation charges.

(4) The Buyer shall have no right to set off, retention or reduction unless the underlying counterclaims have been conclusively determined by a court or expressly acknowledged by Seller.

7. Warranties

(1) General. All engineering, documentation, drawings, layouts, specifications, diagrams, process flows and balances supplied by Seller are according to the technically relevant international standards (at Seller's choice), for example ASME, ISO, EN, IEC and/or VDE standards, as well as Seller's own

standards. Seller warrants that its goods and services delivered under this Agreement will, at the time of delivery, be free from defects in material and workmanship and will conform to Seller's applicable specifications and quality standards or, if appropriate, to Buyer's specifications accepted in writing by Seller. Seller's obligation or liability towards Buyer for goods and services which do not conform to the above stated warranty shall be limited to Seller, at Seller's sole discretion, either repairing, replacing or refunding the purchase price of the defective goods or the repairing or replacing or refunding the price of the provided services under the condition precedent that provided that timely written notice of said defect is received by Seller within the time periods set forth in section 4 (Delivery and Acceptance) and the proper claim is raised in a proper venue no later than as per below:

- i. for all engineering design and technical consulting, - thirty (30) days from date of initial delivery;
- ii. for all hardware products including complete systems, - one (1) year from date of initial delivery except wear parts.

The foregoing warranties shall not apply to any products which Seller determines have, by Buyer or otherwise, been subjected to operating and/or environmental conditions in excess of the maximum value established therefore in the applicable specifications, or any products that have been the subject of mishandling, misuse, misapplication, neglect, improper testing, repair, alteration or damage. No warranty applies to wear and tear.

(2) Limitation. Seller provides no guarantee whatsoever for any products or services. Seller's warranty shall be limited as above in sub-section (1), i.e. shall primarily provide for correction, alternatively substitution. Cash compensation will only be provided in case of an express separate agreement in writing between the parties; such agreement being entirely in the discretion of Seller.

The provisions of the foregoing warranties extend to Buyer only and not to Buyer's customers or users of Buyer's products and are in lieu of any other warranty, whether express, implied or statutory, including any implied warranty, of merchantability or fitness for a particular purpose.

Seller shall in no event be liable for any indirect damages and/or consequential damages and/or losses, such as, but not limited to loss of profit, loss of use, loss of production, stranded cost, etc.

Seller's liability arising out of the production, sale or supply of products or their use or disposition, whether based upon warranty, contract, tort, fault or otherwise, shall not exceed cumulatively for all grounds for responsibility the value of the actual purchase price received from Buyer for Seller's goods or services. Seller's liability for any claim of any kind shall in no case exceed the obligation or liability specified in this Warranty.

(3) Technical Assistance. Seller's Warranty shall in no case be affected by Seller's rendering of technical advice or maintenance and no obligation or liability shall arise out of such advice.

(4) Warranty Procedures. Buyer shall notify Seller of any goods and design work which it believes to be defective or incorrect during the applicable warranty period and which is covered by the warranty set forth above. Buyer shall not return any products for any reason without the prior authorization of

Seller and its issuance of a Return Material Authorization ("**RMA**") number. After issuance of an RMA number, such products shall be promptly returned by Buyer (and in no event later than thirty (30) days after the warranty expiration date), transportation and insurance prepaid, to the Seller's designated facility for examination and testing. Seller shall either repair or replace any products received from the Buyer and confirmed to be defective and promptly return such repaired or replaced products to Buyer, transportation and insurance prepaid. Incorrect design work will be corrected within shortest time possible. Should Seller's examination and testing not disclose any defect covered by the warranty, Seller shall immediately notify the Buyer and dispose of or return the products in accordance with Buyer's instructions and at Buyer's sole expense, and Buyer shall reimburse Seller for testing expenses incurred at Seller's repair rates current at the time of such examination.

(5) Repair Warranty. Seller warrants its repair work and/or replaced parts for a period of ninety (90) days from receipt by Buyer of the repaired or replaced products or for the remainder of the warranty period for the initial delivery of such order as set forth in paragraph 6 (1) above, whichever is greater.

(6) Critical Applications. Certain applications using Seller's products may involve potential risks of death, personal injury, or severe property or environmental damage ("**Critical Applications**") caused by operational malfunction. Therefore, Buyer operates Seller's products on his own risk and agrees to defend, indemnify and hold Seller harmless from any and all damages, claims, proceedings, suits or expense resulting from such use.

8. Indemnities for infringement of patents, copyrights and trade secrets

(1) By Seller. Except as provided below, Seller shall defend and indemnify Buyer from and against any damages, liabilities, costs and expenses (including reasonable attorneys' fees and court costs) arising out of any claim that products purchased hereunder infringe a valid patent or copyright or infringe a trade secret of a third party, provided that

- i. Buyer shall have promptly provided Seller written notice thereof and reasonable cooperation, information, and assistance in connection therewith, and
- ii. Seller shall have sole control and authority with respect to the defense, settlement, or compromise thereof. Should any products delivered hereunder become or, in Seller's opinion, be likely to become the subject of such a claim, Seller may, at its option, either (a) procure for Buyer the right to continue purchasing and using such products, or (b) replace or modify such products so that they become non-infringing, or (c) request that Buyer return such products and, upon receipt, reimburse Buyer the full purchase price paid for such products as full and complete satisfaction for any claims Buyer may have against Seller arising from such infringement. In such event, Seller may withhold further shipments of infringing or potentially infringing Seller products.

Seller shall have no liability or obligation to Buyer hereunder with respect to any patent, copyright or trade secret infringement or claim thereof based upon:

- i. compliance with designs, plans or specifications of Buyer,
- ii. use of the products by Buyer or any agents or customers of Buyer in combination with, or the incorporation or imbedding of the products into, devices or products not purchased hereunder where Seller's product alone would not be infringing,
- iii. use of the products by Buyer in an application or environment for which such products were not designed or contemplated,
- iv. modifications of the products by Buyer or any agents or customers of Buyer, or
- v. any claims of infringement of a patent, copyright or trade secret in which Buyer or any affiliate or customer of Buyer has an interest in or a license for.

The foregoing states the entire liability of Seller with respect to infringement of patents, copyrights and trade secrets by Seller's products or any part thereof or by their operation.

Notwithstanding anything to the contrary contained herein or otherwise expressly agreed between the parties in writing, Seller shall in no event be liable for any indirect damages and/or consequential damages and/or losses, such as, but not limited to loss of profit, loss of use, loss of production, stranded cost, etc.

(2) By Buyer. Buyer shall defend and indemnify Seller from and against any damages, liabilities, claims, proceedings, suits, costs and expenses (including reasonable attorneys' fees and court costs) incurred by Seller as a result of or arising from Buyer's activities, including, without limitation, product liability, intellectual property infringement, customer warranty and service claims, provided that Seller promptly provided Buyer with written notice thereof and reasonable cooperation, information and assistance in connection therewith, and Buyer has sole control and authority with respect to the defense, settlement or compromise thereof.

9. Limitation of Liability

Seller's liability hereunder (e.g. warranty, indemnity, damages, late delivery, etc.) shall be cumulatively limited at an overall maximum of the value of the payments actually received (cash-in). The parties may agree to conclude a relevant insurance covering a higher amount.

10. Retention of Title

(1) Seller retains title to all goods supplied by it until full payment of the amounts invoiced. If the goods have been used in the production or completion of other goods or plants or constructions, etc. the retention of title shall extend to such product achieved by using the goods or services which have

not been paid and to any turnover or income generated by it. If goods which are the property of the Seller are mixed, blended or combined with other items, the Buyer already at this point assigns his ownership rights or co-ownership rights to the new item to the Seller and shall hold the item in safe custody for the Seller with the care of a prudent businessman. The Buyer may only sell the products which are the property of the Seller in the ordinary course of business provided that he is not in default of payment and ensures that monies received are transferred to Seller. Hereby, Buyer assigns his purchase price claims from resale vis-à-vis his customers to the Seller and shall make the notification which is required for this assignment clause to become effective in his books or on his invoices. In the case of assignment, the Seller shall also be entitled to notify the customers of the Buyer. If there are any unsettled or scheduled payments to be made by Buyer vis-à-vis Seller any Seller's consent to resale or combine the products shall automatically expire, if insolvency proceedings are opened over the assets of Buyer.

(2) In the event of any third-party action against Seller's or service results (such as plans, drawings) delivered under retention of title or any receivables assigned to Seller, Buyer shall notify such party of Seller's property/ right and immediately inform Seller about such action. Buyer shall bear the costs of any intervention.

(3) If Buyer shall be in breach of contract, in particular in payment default, it shall, upon Seller's demand, immediately return all goods delivered under retention of title and assign to Seller any repossession claims against any third party in conjunction with such goods. Any repossession or enforcement proceedings with regard to the goods delivered under retention of title shall not be regarded as a rescission of this Agreement.

(4) Any assignment of this Agreement, or of any rights or obligations hereunder by Buyer without prior written consent of Seller shall be null and void.

11. Cancellation

(1) Buyer may cancel its order only upon written notice and upon payment to Seller subject to the following cancellation charges:

- a) more than sixty (60) days prior to the scheduled delivery date - 0% of the purchase price;
- b) between thirty (30) and sixty (60) days prior to the scheduled delivery date - 75% of the purchase price;
- c) less than thirty (30) days prior to the scheduled delivery date - 100% of the purchase price, i.e. full price has to be paid.

(2) The cancellation provisions mentioned above in paragraph 11 (1) apply only to non-custom goods and services. Buyer may not cancel, delay or otherwise modify orders for custom-made goods or services without Seller's prior written consent.

(3) Buyer may only cancel an order due to Seller's delayed performance if Seller has been given prior notice specifying such default to rectify the delay within a reasonable, minimum thirty (30) days period has failed to do so.

12. No license

The sale of goods or parts thereof by Seller does not convey any license or other rights of whatever kind, in particular intellectual property rights such as patents, utility models, trademarks, designs or brands, by implication, estoppel or otherwise to use or practice any patent claims or other intellectual property of Seller covering the products, their parts or other devices or elements.

13. Proprietary Information

(1) No proprietary information disclosed by either party to the other in connection with the Agreement shall be disclosed to any person or entity other than the recipient party's directly involved employees and contractors who agree to protect the confidentiality of such information, and such information shall otherwise be protected by the recipient party from disclosure to others. Information will not be subject to this provision if it is or becomes a matter of public knowledge without the fault of the recipient party, if it was a matter of written record in the recipient party's files prior to disclosure to it by the other party, or if it was or is received by the recipient party from a third person under circumstances permitting its unrestricted disclosure by the recipient party. Upon termination of the Agreement, each party shall promptly deliver to the other, all proprietary information of the other party in the possession or control of such party and all copies thereof.

(2) Buyer undertakes to treat any and all information, irrespective of its content, format and form (such as but not limited to written, oral or electronic transmission), e.g. all data, drawings, concepts, calculations and all kinds of documentation from and about Seller or from or about any of its group-companies or other suppliers, including but not limited to their products, technology, prices, designs, innovative solutions, as well as any other technical and business information, personal data of the individuals involved as strictly confidential and shall use it only for the purposes of the collaboration with Seller's competitors. For the avoidance of doubt, any and all information provided by or derived from Seller shall be considered confidential by default unless the latter has specifically agreed to its non-confidential nature.

(3) Both parties shall protect personal information under applicable data protection legislation and as a minimum at the level required by the General Data Protection Regulation (EU) 2016/679 of the European Union.

14. Force majeure

In the event that either party is prevented from performing, or is unable to perform, any of its obligations under this Agreement due to any act of nature, fire, casualty, flood, war, riot, strike, lock out, failure of public utilities, injunction or any act, exercise, assertion or requirements of governmental authority, epidemic, destruction of production facilities, unavailability of materials, labor, equipment, transportation or energy sufficient to meet production and delivery needs, or any other cause beyond the reasonable control of the party invoking this provision, and if such party shall have used reasonable efforts to avoid such occurrence and minimize its duration and has given prompt written notice to the other party, then the affected party's performance shall be excused and the time for performance shall be extended for the period of delay or inability to perform due to such occurrence.

15. Applicable law and venue, partial invalidity

(1) The construction, interpretation and performance of this Agreement and all transactions, disputes or claims hereunder or related hereto shall be governed in all respects by the laws of AUSTRIA excluding Austrian conflict of laws rules and UN-Conventions on the International Sales of goods (UN Sales law).

(2) For all disputes directly or indirectly arising from the contractual relationship the court having jurisdiction over the subject-matter at the place of the Seller's establishment shall have exclusive jurisdiction.

(3) If the Buyer's registered office is situated outside of the European Economic Area or Switzerland, all disputes or claims arising out of or in connection with this Agreement, including disputes relating to its validity, breach, termination or nullity, shall be submitted to the Vienna International Arbitral Centre (VIAC) of the Austrian Federal Economic Chamber and shall be finally settled under the Rules of Arbitration (Vienna Rules) of VIAC by one or three arbitrators appointed in accordance with the said Rules. Arbitration language shall be English. Place of arbitration shall be Vienna. The provisions on expedited proceedings (Article 45 Vienna Rules) shall apply, unless Parties agree otherwise in written before the start of arbitration proceedings.

(4) In any event, the Seller is entitled to sue the Buyer also at the place of Buyer's establishment at any competent court there.

(5) The invalidity of any provision of these General Terms and Conditions shall not affect the validity of the other provisions. Invalid provisions shall be deemed to be replaced by such valid provisions that shall be suitable to implement the economic purpose of the deleted provision to the greatest extent possible.

This is a revised version of Terms and Conditions from October 2015 and it becomes effective as of April 1, 2019.