

GENERAL TERMS AND CONDITIONS OF BUSINESS

of E³ Energie Effizienz Experten GmbH (hereinafter called "E³")

Version February 2017

1. SCOPE OF APPLICATION

1.1 E³ Energie Effizienz Experten GmbH (hereinafter called "E³") shall provide all supplies and services irrespective of their legal grounds exclusively on the basis of the General Terms and Conditions set forth hereafter. Supplementary and divergent business conditions of the customer shall only become effective upon E³'s explicit written consent.

1.2 The following conditions shall apply for both consumers and merchants, unless explicitly differentiated on an individual basis.

1.3 All content represented by websites, in brochures, advertisement and non-binding quotes shall constitute an offer to the customer to place a binding purchase order. The purchase order's acceptance shall be effected by a written order confirmation, supply of goods or services.

1.4 All rights in descriptions, plans, drawings, other records or materials left by E³ to the customer in conjunction with the submission of a tender shall be retained by E³, in particular proprietary rights and copyrights as well as the right of exploitation, reproduction and distribution. Whether and in which context the customer shall acquire proprietary or user or publication rights therein, depends on the contractual agreements made with the customer.

1.5 The performance of orders in accordance with customer documents to be submitted is subject to E³'s approval of such documents.

1.6 Concluded agreements oblige the client to accept and pay for the supplies and services ordered.

2. CONSUMER RIGHT OF REVOCATION in the event of contractual conclusion outside business premises pursuant to §§ 312g, 355f of the German Civil Code ["BGB"]

The consumer has the right of revocation as outlined below, whereas the consumer shall be any individual person concluding a legal transaction with a purpose that can predominantly neither be allocated to their commercial nor their independent professional activity:

2.1 Cancellation right

You are entitled to cancel the present contract within 14 days without giving reasons. The withdrawal period of fourteen days is counted from the day

- on which you or a third person nominated by you and not being the carrier, have or has gained possession of goods or when you have placed a purchase order for one or more goods in the framework of a uniform order and the one or more goods are being uniformly delivered;

- on which you or a third party nominated by you – not being the carrier – have or has taken possession of the last item or – whatever is applicable – if you have ordered more than one good within the context of a uniform purchase order and those goods are being delivered separately;

- on which you or a third party nominated by you and not being the carrier, have or has received the final partial shipment or the final part, if you had ordered items being shipped in numerous partial shipments or in parts.

Wherever more than one of the alternatives set forth above apply, the withdrawal period shall be counted only from the day you or a third party - nominated by you and not being the carrier - have or has received the final partial shipment or the final part respectively.

To exercise your right of revocation, you must inform us (E3 Energie Effizienz Experten GmbH, Eugen-Bolz-Strasse 5, D-74523 Schwäbisch Hall, Tel.: +49 (0)791 946 00 300, Fax: +49 (0)791 946 00 520, e-mail-address: info@e3-experten.com) by means of an unequivocal statement (e.g. a letter sent by post, fax or e-mail) about your decision to withdraw from the present contract. You may use the attached standard withdrawal form for this purpose; however you are not obliged to do so.

Timely despatch of your message about exercising your right of revocation within the withdrawal period shall be deemed sufficient to comply with the revocation time limit.

Consequences of cancellation

If you are withdrawing from the present contract, we are obliged to refund all payments received from you without delay and not later than fourteen days counted from the day of your withdrawal's receipt, transport cost included. Not included are additional costs arising out of your decision to choose a transport mode differing from the most favourable standard transport that we offered. We shall use the same means of payment that you used for the original transaction, unless explicitly agreed otherwise; fees for such repayment will never be charged. We may refuse the repayment until receipt of the returned goods or until you have submitted proof of the goods return shipment, whichever occurs earlier.



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You must send back or hand over the goods without delay and in any case within fourteen days counted from the day having notified us about the cancellation of present contract. The required time limit shall be deemed as met if you dispatch the goods earlier than the fourteen-day deadline.

You shall bear the transport cost for the return of package-capable goods. You shall also bear the direct cost of returning goods not consignable by parcel. The maximum estimated cost is EUR 400.00.

You shall only pay for the goods' loss in value if such fall in value is caused by your handling of the goods which is unnecessary to examine the quality, properties and functionality of the goods.

2.2 Exclusion and/or premature expiration of the right of withdrawal

A right of withdrawal does not exist for contracts

- for the supply of goods that are not pre-fabricated and that are subject to production in accordance with the consumer's individual selection or specification or that are evidently tailored to the consumer's personal needs.

The right of withdrawal shall expire prematurely in contracts

- for the supply of goods, if same had been inextricably mixed with other goods due to their nature.

- for the supply of audio or video records or computer software in a sealed package if the seal had been removed after the good's supply.

3. PRICING, PAYMENT, OFFSETTING

3.1 The respective agreed price is relevant. Unless stated otherwise, prices indicated to consumers pursuant to § 13 BGB are gross prices including V.A.T. and prices indicated to merchants pursuant to § 14 BGB are net prices (statutory value added tax excluded). The cost of packing, transport and insurance as well as any further additional costs shall be charged separately.

3.2 E³ shall be entitled to adjust the price of supplies or services not yet provided within a four month period upon conclusion of the contract in line with rising labour and material costs experienced in the interim. This also applies to supplies and services provided within the context of a continuing obligation and irrespective of a particular supply or performance period. For all price adjustments exceeding the rise in the general cost of living by more than two percent, the customer – provided this customer is a consumer pursuant to § 13 BGB – shall be entitled to terminate the contract. Where E³ had agreed upon prices contingent on certain price factors such as e.g. raw material prices with customers being merchants pursuant to § 14 BGB, any changes of such price factors may lead to corresponding price adjustments that are also independent of a particular supply or performance period.

3.3 Unless otherwise agreed, payment shall be due within 10 days net from the date of invoice. E³ shall, however, have the right for agreeing partial advance payment or prepayment with the customer in the case when no business relationship had been existing so far, for supplies abroad Germany, if the customer's registered office is abroad Germany or for any other reason might give rise to doubt as to payment on time upon supply. Payment shall be deemed as made on the day E³ attains control over the amount owed. With the acceptance of cheques, the debt shall be deemed to be paid upon the submitted cheque's cashing and credit in favour of E³ at due date.

3.4 In the event of default in payment, E³ shall be entitled to claim interest on arrears at the rate of 5 percent above prime rate from consumers and at the rate of 8% percent above prime rate from merchants. The right to claim any further damages, in particular higher interest rates due to other legal reasons, remains reserved.

3.5 Where a substantial deterioration of the customer's financial circumstances becomes known after conclusion of the contract or if such deterioration of the customer's financial circumstances becomes apparent after the contract's conclusion, jeopardizing E³'s payment entitlements, E³ shall be authorised to suspend the further execution of contractual duties until the customer has rendered counter performance or given an equivalent warrant. Should the customer default on payments all claims and receivables against the customer - no matter whether an invoice had already been issued or not - shall become due and payable immediately, unless such default on payments was not the customer's fault.

3.6 Payments received from the customer shall always be credited to already existing debts pursuant to article 2 of §§ 366 and 367 BGB unless otherwise specified by the customer. The customer is not entitled to set off payments with other claims than such being uncontested or adjudicated.

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4. DEADLINES AND DATES

4.1 Unless agreed otherwise, supplies subject to E³ obligation to dispatch shall be deemed fulfilled on time once the goods are handed over to the transport person at E³'s business location or at an E³ warehouse.

4.2 The start of counting the time of agreed deadlines for supply or completion and meeting agreed dates respectively is subject to all necessary clarification of engineering queries. This applies in particular for the customer's obligation to cooperate. In the case of non-compliance with agreed delivery dates the customer shall grant E³ a reasonable period of grace for rendering the due contractual performance. Periods of grace shall be set in writing.

4.3 In cases of force majeure, labour disputes and similar incidents for which E³ cannot be held responsible, the performance deadline of E³ shall be prolonged by the duration of such events. In case the events continue for more than 3 months, each contracting party shall have the right to withdraw from the contract. Already effectively established statutory cancellation rights remain unaffected. E³ shall not be held liable for delay in performance caused by events for which E³ is not responsible and will not compensate any expenses or damages arising thereof.

4.4 Subsequent customer requests for change or amendment agreed with E³ will lead to a reasonable extension of agreed deadlines and dates. In principle, supply preparation processes, notification of readiness for pick-up as well as the organisation of any other contract fulfilment actions agreed are carried out on working days within normal business hours.

4.5 E³ has the right to perform reasonable partial supplies and services. Premature deliveries or services are allowed unless explicitly agreed otherwise.

4.6 If the customer enters into acceptance default, E³ may claim compensation for customary storage costs and for any other additional expenses for storage and maintenance of the delivery item(s). Moreover, the risk of coincidental loss or accidental deterioration will pass to the customer at that time in which the customer enters into acceptance default. Where acceptance default simultaneously constitutes debtor's delay, E³ is entitled to claim for damages arising thereof. Any further statutory rights remain unaffected.

4.7 Where it is E³'s fault, E³ shall be liable for debtor's delay pursuant to section 8.

5. RESERVATION OF OWNERSHIP, WITHDRAWAL

5.1 E³ reserves the right of ownership of all supplies until receipt of full payment. Where such supplies or services also include software, only a revocable right to use shall be granted until receipt of full payment.

5.2 Pledging, cession of goods by way of transfer of security, processing or redesign of the goods prior full transfer of ownership without explicit consent of E³ is not permitted. The customer has the duty of immediately notifying E³ if third parties claim rights with respect to the items.

5.3 If the customer acts in violation of the contract, in particular in the event of a default in payment, E³ shall be entitled to withdraw from the contract, to demand the return of the privileged property and utilise it otherwise pursuant to statutory regulations. In the event of a cancellation, E³ shall be entitled to withdraw the right revocably granted to the customer of using software pursuant to section 5.1.

5.4 If the customer is a merchant pursuant to § 14 BGB, the customer has the right of the goods' resale in the proper course of business; the customer, however, now already transfers all claims to E³ at the total amount including V.A.T. billed by E³ to him and arising against his purchasers or third parties as a result of such resale. Even after transfer of claims, the customer remains authorised for collecting the debts. E³'s right for collecting the debts by themselves remains unaffected. E³ undertakes, however, not to collect the debts as long as the customer meets its payment obligation from the proceeds collected, does not default on payment and as long as no settlement or insolvency proceedings are applied for or payments have been suspended. If this is the case, however, E³ may require the customer to disclose all transferred claims and their debtors, to hand over to E³ all information necessary for the collection of debts along with all corresponding documentation and to inform the customer's debtors about such assignment of receivables.

5.5 For the case that the property of E³ supplied subject to reservation of title should expire as a result of an act of combination (e.g. by assembly), the (shared) ownership of the customer in the common object shall be assigned pro-rata in accordance with the privileged goods' invoice value to E³ and shall be kept safe by the customer free of charge.

5.6 E³ undertakes to release securities upon the customer's request to the extent that its realisable value exceeds the claim to be secured by more than 10 %.

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6. CUSTOMER DUTY TO COOPERATE

6.1 Where the supply of agreed services requires the customer's cooperation, the customer shall ensure the availability of all necessary and useful information and material to E³ in due time and appropriate quality along with providing access to the service subject. In the case of programming work, the customer shall make available to E³ the necessary computing capacity, test data and data entry capacity in a timely manner and to a sufficient extent.

6.2 If the customer does not, does not fully or does not in a timely manner meet its obligation to cooperate, the performance deadline for E³ shall be prolonged correspondingly until the customer has fulfilled its duty to cooperate. Moreover, the customer shall reimburse E³ expenditures and damages arising thereof unless such breach of duty is not the customer's fault.

7. DEFECT RIGHTS

7.1 E³ produces and procures their products according to the state of the art applicable at the time of contract conclusion. The customer's purpose for application beyond customary use or requiring a quality diverging from the usual one, especially for safety-relevant applications such as e.g. use in aeronautics, aerospace or automotive must be contractually agreed.

7.2 All customer warranty claims for defects against E³ comply with statutory regulations, the following sections reserved.

7.3 Normal, usage-typical wear does not constitute a defect. The customer shall comply with the recommendations given by E³ and the producer respectively for operation, storage and / or maintenance. Only authorised modifications, correct exchange of parts and consumable material in line with the corresponding specifications are permitted. E³ shall not be held responsible for defects resulting directly or indirectly from the customer's violation of such obligations.

7.4 In the case of a defect claim, the customer has the duty to describe the defect symptoms in detail and in writing, alternatively and upon E³ request, to make defect devices or parts available for examination and rectification. If the customer is a merchant pursuant to § 14 BGB, the duty to examine and report defects pursuant to § 377 HGB remains unaffected.

7.5 In the case of claimed defects, the customer shall grant E³ a reasonable time limit for rectification. E³ reserves the right for rectification by repair or additional delivery at their own discretion. Where rectification failed or turns out to be unreasonable for the customer, the customer is entitled to withdraw from the contract or to reduce the purchase price. A withdrawal is excluded for cases where E³'s breach of duty is only minor.

7.6 The limitation period for warranty claims shall be counted from the time of risk transfer and is 24 months for supplies to consumers and 12 months for supplies to merchants. The limitation period for service or work supplied – counted from the date of acceptance – is 12 months for merchants and 24 months for consumers. Aforementioned limitation periods do neither apply for recourse actions in accordance with §§ 478, 479 BGB nor for maliciously concealed defects nor for damage claims according to the sections 8.3 until 8.6., where the statutory limitation period applies.

7.7 Product warranties, service commitments, performance warranties as well as conformity or clearance certificates by the producer(s) that are handed over in the course of supply and not drawn up by E³ do not represent any individual warranty or commitment given by E³.

7.8 Parts exchanged within the framework of repair or replacement become property of E³ and shall be sent back by the customer upon request and at the expense of E³.

7.9 Where it shown that E³ is providing services due to defects claimed by the customer without the existence of an actual case of warranty, the customer shall reimburse to E³ all expenses arisen thereof, unless this was not the customer's fault.

7.10 The regulations of section 8. do additionally apply for legal rights to claims for damages.

8. LIABILITY

8.1 E³ shall not be liable for damages in supply or services that are not their fault; this applies in particular for damages caused by improper use or handling of the products. The customer is obliged to obey the operation, storage and maintenance recommendations given by E³ or the manufacturer respectively, to carry out solely authorised modifications, to exchange parts correctly and to use only consumable material meeting the relevant specifications. Where applicable, the customer shall perform regular data back-ups on the customer EDP system in reasonable time intervals prior and after E³ has provided supplies and services. E³ shall not be held liable for damages resulting from and caused by a customer violation of the obligations and duty to cooperate outlined above.

8.2 E³ shall not be liable for direct or indirect damages caused by minor negligence of E³ or their vicarious agents, irrespective of their legal grounds.

8.3 The limitation set out in section 8.2 shall not apply for cases of violating a material contractual obligation (so-called cardinal obligation) by E³ or their vicarious agents. For such cases, however, the liability of E³ shall be limited to typical damages and damages foreseeable at the time of contract conclusion.

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- 8.4** The limitation set out in section 8.2 does not apply to breach of duty by E³ or their vicarious agents that causes harm to body, life or health.
- 8.5** The limitation set out in section 8.2 does not apply to compulsory statutory liability regulations such as those arising from product liability law.
- 8.6** E³ shall be liable without limitation in cases of gross negligence or wilful breach of duty.
- 8.7** The statutory limitation periods apply.
- 8.8** The liability limitations set above also apply in favour of managing officers, employees and vicarious agents of E³ in terms of possible personal liability.

9. RIGHTS TO USE SOFTWARE, THIRD PARTY PROPERTY RIGHTS

- 9.1** Any rights pertaining to software supplied to or created for the customer, especially copyrights, industrial rights and neighbouring protective rights shall remain with E³ or the right owners respectively. This shall also apply if the software had been designed pursuant to customer provisions or with the cooperation of the customer.
- 9.2** If E³ uses customer software, any copyright and neighbouring rights shall remain with the customer. E³ will use such software solely for the purpose agreed by contract. Should E³ need the source code of such software for modifications or defect correcting actions, the customer shall make such source code available for use to E³ free of charge.
- 9.3** Unless explicitly permitted by contract or law, the customer is not allowed to either reproduce, distribute, transfer, modify, translate, enlarge and/ or alter in any other way software received by E³, or to decompile or use such software as basis for developing similar software. In other respects, the relevant individual software license conditions shall apply.
- 9.4** The customer obtains only a simple user right and to the extent suitable for the contractual purpose. Any use of the software reaching further than the software producer's or E³'s licensing terms and conditions, contractual agreements or contractually given purpose, requires the written consent of E³.
- 9.5** The customer is permitted to make backup copies for data for data backups unless a differing rule applies under the relevant licensing contract. Backup copies on removable media must be labelled as such marked with the copyright notice of the original data medium.
- 9.6** E³, where applicable also the software producer, reserve the right of claiming damages in cases of unlawful software use exceeding the granted simple user rights.
- 9.7** The customer shall notify E³ immediately in writing about claims raised by a third party that impair the simple user rights granted to the customer. The customer shall not accept such third party claims without the consent of E³. E³ will defend against such third party claims.

10. DATA PROTECTION, PRIVACY

- 10.1** E³ informs the customer that E³ will collect, process and use data recorded in the framework of the conclusion of contract for the fulfilment of obligations resulting from the contracts concluded with the customer, also adhering to the rules of the German Federal Data Protection Act (BDSG). For the purpose of meeting contractual obligations and solvency checks, such data may also be transferred to companies associated with E³ or to parties assigned to perform for fulfilling the contractual duties.
- 10.2** The contracting parties undertake to treat all commercial and technical details received or obtained from the respective other contracting party in the course of contract performance as business secrets, as long as such details have not been made publicly available by the other contracting party.

11. LEGAL VENUE, PLACE OF PERFORMANCE, GOVERNING LAW, DISPUTE SETTLEMENT PROCEDURES

- 11.1** If the customer is a merchant, a corporate body or a special fund under public law, the venue for all legal disputes shall be the competent court for the business location of E³. E³ shall, however, shall have the right to take legal actions against the customer at their general place of jurisdiction.
- 11.2** Place of performance for supplies, services and payments shall be the business location of E³.
- 11.3** The laws of the Federal Republic of Germany shall apply, excluding the UN Convention on International Sales (CISG) of 11 April 1980 (UN Sales Convention).
- 11.4** E³ is not obliged to take part in dispute settlement procedures before a consumer mediation body, and is essentially unwilling to do so.



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ENVIRONMENTAL STATEMENT

Human beings and the environment are paramount for E³. For this reason, we undertake to produce our products under resource-saving aspects and to systematically adopt the potential of energy-saving production methods and transportation. We spend a great deal of time selecting ecological alternatives for energy and raw material sources and a rigorous approach to waste prevention and product recycling.

The present General Terms and Conditions of Business apply to the following factories / business divisions:

E³ Energie Effizienz Experten GmbH

Eugen-Bolz-Strasse 5
D-74523 Schwäbisch Hall

Germany

Standard withdrawal form

(If you wish to withdraw from the contract, please complete this form and return this to us)

To
E3 Energie Effizienz Experten GmbH
Eugen-Bolz-Strasse 5
74523 Schwäbisch Hall
Germany
Fax number : +49 7 91 946 555 520
e-mail: info@e3-experten.com

I / we (*) hereby withdraw from the contract I / we (*) concluded for the purchase of the goods as follows (*) / for the supply of services as follows (*)

(*) Ordered on _____ / (*) received on _____ / Purchase order number: _____

Consumer name(s): _____

Consumer(s) address: _____ EN _____

Consumer(s) signature (only if communicated on paperwork): _____

Date: _____

(*) Delete as applicable