

General Terms of Supply and Sale of SENEK GmbH (GTSS SENEK)

1. SCOPE OF APPLICATION AND GENERAL PROVISIONS

a) The following provisions shall apply to all business relations, in particular all quotations, deliveries and services rendered to and with contractual partners as well as clients (hereinafter referred to as “the Customer”). Any other terms and conditions of the Customer shall not be valid. Exceptions shall be possible subject to a written statement of acceptance from SENEK GmbH (hereinafter referred to as “SENEK”). By concluding an agreement, the Customer accepts these terms of business. These terms of business shall also apply in the event that, aware of conditions of the Customer which contradict or deviate from these conditions, SENEK accepts, undertakes and completes a delivery to the Customer without reservation. The terms of business shall apply only to entrepreneurs within the meaning of Section 310 Para. 1 of the German Civil Code (BGB) and to commercial retailers, but not to consumers.

b) They shall also apply to all future business transactions between the contracting parties without the need for any reminder.

c) In the event that particular provisions differing from these conditions are agreed in writing for specific individual deliveries, these general terms of business shall be subordinate and supplementary thereto.

d) SENEK shall be entitled to all rights to quotation documents, including photographic material etc.

e) Business and trade secrets must be treated with the utmost confidentiality.

2. CONCLUSION OF AGREEMENTS

a) All offers to enter into an agreement which are made by SENEK shall be subject to change. Orders by the Customer shall constitute a binding offer. Agreements shall enter into force upon confirmation of the order by SENEK or delivery by SENEK. The scope of the contractually owed service shall be determined exclusively by the order confirmation from SENEK.

b) Information provided by SENEK in brochures, leaflets and other documents such as instructions and promotional materials, or in advertising, as well as public statements concerning the properties, nature and features of the goods, shall be descriptive and non-binding unless expressly agreed otherwise in writing. The leaflets and other documents accessible on SENEK’s websites, as well as any calculation tools provided by SENEK, shall be exclusively for the purposes of guidance and estimation, shall not provide any certainty and in particular shall not constitute any form of guarantee by SENEK. Furthermore, offers made by SENEK on websites shall not constitute binding offers to enter into an agreement, but shall merely be an invitation for the Customer to submit an offer for the product in question.

c) SENEK shall retain the property rights and copyrights to illustrations, drawings, calculations and other documents, including those in electronic form. This shall apply in particular to documents which are identified as “confidential”. The Customer must obtain the express written consent from SENEK before transferring such documents to third parties.

d) SENEK shall reserve the right to make changes even after an order confirmation is sent, provided that these changes do not conflict with the order confirmation or the Customer's specifications. The Customer shall consent to changes proposed by SENEK which extend beyond this, provided that said changes are reasonable for the Customer.

e) SENEK shall reserve the right to make minor modifications to information concerning dimensions, weights, nature and quality.

3. PRICES, TERMS OF PAYMENT AND ELECTRONIC INVOICING

a) All prices given shall be ex works (EXW as per Incoterms 2010, excluding packaging and transport) and shall not include the applicable statutory VAT. SENEK shall be free to choose the nature of dispatch and packaging.

b) The Customer must pay 100% of the agreed purchase price in advance, including all ancillary charges, unless otherwise agreed in writing. If partial payments are agreed, the total remaining balance – regardless of the maturity of any bills of exchange – shall be due immediately in the event that the Customer fail to promptly pay two or more consecutive instalments in whole or in part and should the sum which was not promptly paid amount to at least one tenth of the agreed purchase price. In the event that the Customer fails to promptly make payment, SENEK shall be entitled to charge penalty interest in the statutory amount. If SENEK is able to demonstrate damage caused by delay in excess of this amount, SENEK shall be entitled to make a claim for said damage.

c) For agreements with an agreed term of more than three months, SENEK shall reserve the right to adjust the prices in accordance with any increases in costs which occur following the conclusion of the agreement due to additional costs for staff, transport and storage costs, newly imposed or adjusted taxes, or increases in material costs. However, any such increase in prices shall only be permissible up to a maximum increase of 5% of the agreed price.

d) Should the Customer fail to make prompt payment or should circumstances become known following the conclusion of the agreement which raise doubts about the Customer's creditworthiness, SENEK shall be entitled to demand immediate payment of the Customer's entire remaining balance, to demand advance payments or provision of securities, or, following a reasonable extension period, to withdraw from the agreement without prejudice to any other rights. SENEK shall have reason to doubt the Customer's creditworthiness in particular if the Customer ceases payment or initiates insolvency proceedings for its assets or if a request for initiation of insolvency proceedings is filed and the proceedings are not initiated due to lack of assets.

e) Repayment arrangements: SENEK shall be entitled to appropriate payments firstly to older claims against the Customer from the ongoing business relationship, regardless of any contrary provisions of the Customer. If costs and interest have already been incurred due to delay, SENEK shall be entitled to first appropriate the payments for the costs, then for the interest, and finally for the principal claim.

f) The Customer shall only have the right to offset or the right of retention if its counterclaims have been finally and conclusively established, are undisputed, or are acknowledged by SENEK.

g) Invoices shall be sent exclusively via electronic mail in PDF format. By accepting the service, the Customer gives SENEK its consent to send invoices electronically to the email address provided by the Customer. Furthermore, the Customer shall forgo paper invoices sent via post. As the recipient, the Customer must ensure that all invoices sent by SENEK via email can be correctly delivered to the email address provided by the Customer and must modify technical settings such as filter programs or firewalls accordingly. Delivery shall be deemed to have been made regardless of any automated electronic replies and/or out-of-office replies to SENEK. The Customer must notify SENEK in writing without delay of any change to the email address to which the invoice should be sent. Invoices sent to the email address last provided by the Customer shall be deemed to have been received if the Customer has failed to notify SENEK of a change to its email address. SENEK shall not be liable for damage arising from the potentially greater risk of sending invoices via electronic mail rather than via post. The Customer shall bear the increased risk of access by unauthorised third parties which is associated with storage of electronic invoices.

4. DELIVERY, DELIVERY PERIODS AND DELAY

a) Delivery dates and delivery periods shall be agreed between the Customer and SENEK in writing and for each order. Delivery periods which have been agreed shall begin upon conclusion of the agreement. In the event that changes to the agreement are agreed retroactively in writing, a new delivery date or delivery period must be agreed at the same time if necessary.

b) Delivery dates stated in the order shall be non-binding expected delivery dates. Adherence to “binding delivery dates” which have been confirmed in writing shall be subject to timely receipt of defect-free deliveries by SENEK from its own suppliers or subcontractors. Binding delivery periods and dates confirmed in writing by SENEK shall be deemed to have been observed if the goods have left SENEK’s stores by the end of the period or date in question or, if the goods cannot be dispatched in a timely manner without any fault on the part of SENEK, a notification is sent that the goods are ready for dispatch. The delivery period stated by SENEK shall begin only after the Customer has properly and promptly fulfilled all obligations arising from the entire business relationship, in particular only after timely receipt of complete payment and timely performance of all collaborative acts owed (e.g. materials, documents, licences, approvals, etc. which are to be provided by the Customer). In all other cases, the delivery period shall be extended by a reasonable and proportionate length of time. SENEK shall reserve the right to the defence of non-performance of the contract.

c) In all instances of delayed delivery and of expiry of agreed delivery periods, the Customer shall not be entitled to any claims for damages due to delayed delivery or claims for damages as a replacement for the service, except in instances of intent and gross negligence or due to injury to life, limb or health, and in instances in which liability is mandatory.

d) Deliveries displaying insignificant defects must also be accepted.

e) SENEK may provide and charge for partial deliveries and partial performances, insofar as these are reasonable for the Customer, and may, if necessary, change the materials of the products to be delivered without the Customer’s approval, insofar as this does not lead to any change in the functioning or properties of the product.

f) In the event of delayed acceptance of work by the Customer, SENEK shall be entitled to demand damages for the loss incurred; upon the beginning of said delay, the risk of accidental deterioration or loss of the goods shall pass to the Customer.

g) If the Customer cancels an order which has already been submitted, a flat-rate fee for damages amounting to 10% of the net sum of the cancelled order shall be payable at the time of cancellation. The damages shall be set at a higher or lower amount if SENEK is able to demonstrate greater losses or the Customer is able to demonstrate lower losses. SENEK shall expressly reserve the right to assert claims for any damages beyond this.

h) The delivery period shall be extended by an appropriate amount if, despite exercising reasonable care, SENEK is prevented from fulfilling its obligations by force majeure, in particular by unforeseeable, exceptional circumstances such as war, civil disorder, distraint, difficulties with energy supply, strikes or stoppages, interruptions of operations, or other circumstances which are beyond SENEK's control and could only be rectified at unreasonable expense, including cases in which such circumstances affect suppliers and subcontractors. If SENEK is unable to provide deliveries or render services in such circumstances, SENEK shall be freed from its obligations to render services.

5. PASSAGE OF RISK

a) The risk shall pass to the Customer when the goods have been dispatched or collected. Delivery shall be EXW (Incoterms 2010). The Customer shall be responsible for taking out transport insurance. If desired by the Customer, deliveries shall be insured against the usual transport risks at the Customer's expense.

b) The Customer is obliged to accept the goods provided by SENEK no later than 8 days following delivery.

6. RETENTION OF OWNERSHIP

a) The delivered goods shall remain the property of SENEK until all claims (including any and all current account balance claims) which SENEK has or will have against the Customer on any legal grounds have been settled. If the contractual item is processed together with other items not belonging to SENEK, SENEK shall gain proportional joint ownership of the new object based on the relation of the value of the goods (invoice total including statutory value added tax) to the value of the other processed items at the time of processing. For the object produced via processing, the same shall apply in all other cases as for the goods delivered under retention of ownership. The Customer shall ensure safekeeping of the (joint) property of SENEK free of charge. Goods for which SENEK is entitled to (joint) ownership are hereinafter referred to as reserved goods.

b) If the value of all securities existing for SENEK exceeds the value of existing claims by more than 10% in the long term, SENEK shall, upon request by the Customer, release the securities of SENEK's choice.

c) The Customer shall be entitled to process and sell the reserved goods in the ordinary course of business, provided that the Customer is not in default. Pledging of the reserved goods and transfers thereof by way of security shall be inadmissible. The Customer must notify SENEK without delay in writing of any seizure or other third-party intervention such that, if necessary, SENEK can file a suit in accordance with Section 771 of the German Code of Civil Procedure (ZPO) (third-party proceedings to prevent the execution of a judgment). If the third party is unable to reimburse SENEK for the legal costs and out-of-court costs of a court action in accordance with Section 771 of the German Code of Civil Procedure (ZPO), the Customer shall be liable for

the costs incurred by SENEK. The Customer hereby assigns any and all claims (including all current account balance claims) which arise with respect to the reserved goods due to resale or on other legal grounds to SENEK in full (including statutory value added tax) by way of security. SENEK hereby accepts this assignment. The Customer shall remain authorised to collect said claim after its assignment. SENEK's authority to collect the claim itself shall remain unaffected. However, SENEK shall not collect the claim provided that the Customer fulfils its financial obligation from the proceeds collected, does not default on any payments, and, in particular, does not request the institution of composition or insolvency proceedings and does not cease payments. If these requirements are not met, the Customer must notify SENEK of the claims which have been assigned and the liable parties, provide all information necessary for collection of said claims, and hand over all documents.

d) Should the Customer exhibit behaviour which breaches the agreement, in particular a delay in payment, SENEK shall be entitled to withdraw from the agreement and to reclaim the goods. After reclaiming the goods, SENEK shall be authorised to sell them; the proceeds from the sale shall be deducted from the Customer's liabilities, minus reasonable and proportionate selling expenses.

7. STORAGE

In the case of storage of a lithium module, the storing party must ensure that the module is not damaged by deep discharge during the storage period. Storage in the sense of this provision means the state in which a lithium module has no mains connection and therefore cannot be automatically recharged, regardless of whether it is installed in a SENEK memory or stored separately. Storage must be carried out by qualified electricians. The provisions of the chapter "Storage" of the current installation instructions valid for the respective storage tank must be observed.

8. WARRANTY

a) SENEK shall be liable in accordance with the statutory provisions on warranty under the following terms. The warranty shall be valid for a period of 2 years following delivery of the goods to the Customer. Section 445b of the German Civil Code (BGB) shall remain unaffected. In the event of an incorrect or faulty delivery or if a defect is displayed, either the defect shall be rectified or a substitute delivery shall be made, at SENEK's discretion. If the defect is to be rectified, SENEK shall bear the costs of transport, travel, work and materials. Section 445a of the German Civil Code (BGB) shall remain unaffected.

b) The Customer shall not be entitled to commission a third-party company to rectify the defect or perform repairs at the expense of SENEK. In the event that SENEK and the Customer agree on rectification of the defect via repairs, the Customer must submit a written quotation for rectification of the defect to SENEK. To do so, the Customer must use SENEK's complaint form, which can be accessed and downloaded at www.senec.com. SENEK shall be entitled to reject this complaint form and instead commission another company of its choosing to rectify the defect. Any quotation sent to SENEK by the Customer must be approved by SENEK in writing. The quotation shall be deemed to have been confirmed if SENEK has sent the Customer a replacement for the goods which are the subject of the complaint.

c) The Customer must allow SENEK a reasonable period for subsequent improvement or substitute delivery. If SENEK is unable to provide subsequent improvement within a reasonable time which allows for at least two attempts at subsequent improvement, the Customer shall be entitled to set SENEK a final reasonable

grace period which allows for at least two attempts at subsequent improvement. If the subsequent improvement is still not successful within this final grace period, the Customer shall be entitled to reduce the amount of remuneration or to withdraw from the agreement at the Customer's discretion.

d) Statements, product descriptions, data sheets and promotional materials or advertising shall not contain any binding description of the agreed nature or properties of the goods (cf. no. 2b) and c)).

e) This section does not constitute a guarantee of quality within the meaning of Section 443 of the German Civil Code (BGB) nor the "acceptance of a guarantee" within the meaning of Section 276 BGB.

f) The Customer may only assert claims based on defects if it has properly fulfilled the requirements to inspect the goods and make a complaint in respect of a defect immediately on receipt of the goods in accordance with Section 377 of the German Commercial Code (HGB), with the proviso that SENEK must be notified of defects which are obvious or only emerge upon proper inspection in writing no later than eight days following delivery of the goods to the buyer. Hidden defects must be notified in writing no later than eight (8) days following their discovery. The Customer must inspect the delivery for visible damage upon receipt thereof from the forwarding agent. Visible damage must be noted in writing on the certificate of delivery.

g) Further claims on the part of the Customer shall be excluded, in particular any claims due to consequential damage caused by defects. Any further liability shall be excluded irrespective of the legal status of the claim asserted. In particular, SENEK shall expressly not be liable for damage which is not caused to the products themselves, such as lost profit or any other financial loss. Any exclusion or restriction of liability shall also apply to the personal liability of employees, co-workers, representatives and agents of SENEK.

h) In the event that a notice of defects is made, the Customer may withhold payments, but only in reasonable proportion to the extent of the material defects in question. Should a notice of defects prove to be unfounded, the Customer must reimburse SENEK for the expenses incurred in association with said notice.

i) If the Customer sells the delivered goods in amended form or following combination thereof with other goods, the Customer shall free SENEK in their dealings inter se from any and all third-party claims, provided that the Customer is responsible for the errors on which the liability rests.

j) Claims for the rectification of defects shall not apply if said defects arise because operating or maintenance instructions are not followed and/or because changes are made to the products, because parts are adapted or exchanged by the Customer or non-authorised and/or non-certified third parties, or because the Customer or non-authorised and/or non-certified third parties perform other work on the products. The same shall apply to defects which arise as a result of excessive strain or incorrect handling which deviates from the product specifications.

k) Liability for defects shall also not apply if the Customer has not given SENEK the opportunity for subsequent improvement or substitute delivery within a reasonable period of time.

l) If review of the notice of defects demonstrates that no entitlement to a claim based on defects exists, the costs incurred by SENEK as a result of said review of the notice of defects shall be borne by the Customer.

m) Any and all warranties granted by SENEK shall be regulated in separate warranty conditions.

n) The Customer shall only be entitled to recourse claims against SENEK in accordance with Section 478 of the German Civil Code (BGB) (Recourse of the entrepreneur) provided that the Customer has not concluded any agreements with its own customer which go beyond the statutory claims based on defects.

o) SENEK and the Customer shall be free to conclude individual agreements in writing in order to simplify the processing of warranty claims for defects.

9. USE OF SOFTWARE

If software is included in the scope of delivery, the Customer shall be granted a non-exclusive and non-transferable right to use the delivered software and associated documentation. Software shall be provided exclusively for use on the contractual item for which it is intended.

Any other use by third parties and any reproduction, revision or translation of the software beyond the scope of a back-up copy produced for the user's own purposes as well as any conversion of object code into source code is expressly prohibited.

10. DATA PROTECTION

SENEK shall use the personal data shared by the Customer (name, address, email address, telephone number) confidentially and in accordance with the provisions of the European Union's GDPR (General Data Protection Regulation) and the German Telemedia Act (TMG). The data needed to fulfil orders will be stored and processed and may also be disclosed to agents in the course of fulfilment of the orders as necessary. Furthermore, SENEK shall reserve the right to use the provided data in an acceptable manner for its own advertising purposes (e.g. for sending informational material). The Customer shall be entitled to object to SENEK's use, processing or transfer of its data for advertising and marketing purposes at any time. Upon receipt of said objection or revocation of consent, SENEK shall cease any further sending of advertising materials without delay. If the Customer supplies products, which it has received, to third parties, the Customer is obliged to obtain a corresponding data protection declaration from its customer so that the latter's data can be transferred to and processed by SENEK so that SENEK can properly maintain and inspect delivered products at the end customer's premises. Upon request, the Customer shall be entitled to access the data stored by SENEK free of charge. The Customer shall have the right to rectification or erasure of incorrect data or to have such data made unavailable. The request may be made informally or even verbally, as the case may be. However, in the case of verbal requests via telephone, unlike requests made in person, doubts will generally exist as to the identity of the requesting party.

11. OTHER LIABILITY

a) Claims for damages on the part of the Customer on any legal grounds whatsoever shall be excluded in all other cases. This shall also apply to claims arising from negligence in the course of contracting. This shall not apply in cases of intent, gross negligence and breach of material contractual obligations. Material contractual obligations shall be understood as obligations which must be fulfilled in order to enable proper performance of the agreement and which the contractual partners can expect to be met as a matter of course. Damages for a breach of material contractual obligations shall be limited to the foreseeable, typical contractual damage. No amendment of the burden of proof to the Customer's disadvantage shall be associated with the above regulations.

b) The exemptions from and/or restrictions to liability provided in these terms of business shall not apply to:

- losses arising from injury to life, limb or health which are caused by a negligent breach of duty on the part of SENEK or by an intentional or negligent breach of duty on the part of a legal representative or agent of SENEK,
- negligent breach of duty on the part of a legal representative or agent of SENEK,
- any instances of liability in accordance with the German Product Liability Act (ProdHaftG) or
- the giving of a guarantee.

c) If the Customer sells or changes the contractual items or combines them with other goods, the Customer shall release SENEK in their dealings inter se from any and all third-party claims, provided that the Customer is responsible for the error on which the liability rests.

d) Changes to the goods and any labelling thereof constituting a mark of origin of the Customer or a third party are inadmissible.

12. RIGHT OF WITHDRAWAL AND RIGHT OF TERMINATION

a) SENEK has the right to withdraw from the agreement in whole or in part if:

- a request is made to institute insolvency proceedings for the Customer's assets,
- it becomes known that the Customer was classified as having poor credit at the time of conclusion of the agreement or
- the Customer ceases operations.

b) For agreements concerning recurring deliveries, the right to withdraw shall be replaced by the right to terminate (without notice) for cause.

13. DECLARATION OF CONFIDENTIALITY/SECRECY AND CONTRACTUAL PENALTY

a) The Customer agrees not to publish or have published any of SENEK's quotation or sales prices anywhere on the internet, be it on the Customer's own website, in blogs or via other online media. The Customer must keep its purchase prices for SENEK strictly confidential and must not make them accessible to or disclose them to any third parties. The Customer shall impose the above obligation of confidentiality on all employees who are or become involved with the purchase and sale of the goods in this regard. The above obligation of confidentiality shall also apply to all of the Customer's affiliated enterprises as well as any other companies, types of business and similar which are associated with the Customer.

b) The Customer must pay a contractual penalty of 50,000.00 EUR for each instance of culpable infringement of the above obligation of confidentiality or of no. 8 of these conditions (use of software), waiving the defence that several infringements of the same kind be treated as one single infringement. The amount of the contractual penalty may be reviewed for suitability by the competent court if applicable; Section 348 of the German Commercial Code (HGB) shall not apply. The assertion of further claims for damages shall remain unaffected. The contractual penalty shall be deducted from the damages due.

14. CREDITWORTHINESS

a) The creditworthiness of the customer is a precondition for a delivery obligation of SENEK. If it becomes known to SENEK after conclusion of the contract that the granting of a credit in the amount of the order

volume is not secured, SENEK can demand advance payments, financial securities or cash payment from the customer despite agreements to the contrary.

b) SENEK is entitled to terminate existing contracts without notice for an important reason if negative credit information questions the customer's ability to fulfil his contractual obligations. Furthermore, SENEK is entitled to terminate the contract without notice if the customer is in default with an important contractual obligation and does not remedy this in due time despite a warning. If SENEK suffers damages as a result of either of the two cases mentioned, these shall be borne by the customer. This applies in particular if the customer becomes insolvent or if enforcement measures are taken against him, insolvency proceedings are opened, or the opening of such proceedings is refused due to lack of assets.

15. OTHER CONDITIONS, SEVERABILITY CLAUSE, PLACE OF PERFORMANCE, PLACE OF JURISDICTION

a) Should parts of these terms of business be invalid or contravene applicable law, the remaining clauses shall remain unaffected. If circumstances arise during the term of the agreement which affect the technical, legal or financial impact of the agreement to such an extent that the services rendered and consideration received are no longer proportionate to each other, each contractual partner may demand that the agreement be adjusted according to the changed conditions. Should individual provisions of these terms and conditions of sale be or become ineffective or impracticable, this shall not affect the validity of the remaining provisions. Such an ineffective, invalid or impracticable regulation shall be replaced by a regulation which comes as close as possible to the business purpose and function of the original. This shall also apply in any case of a gap in the provisions of the agreement.

b) The place of performance and place of jurisdiction for SENEK shall be its principal place of business in Leipzig, Germany. SENEK shall be entitled to bring legal actions at the Customer's place of business.

c) These terms of business shall be subject to German law. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply. SENEK shall reserve the right to make modifications.

d) In the course of business relations with the Customer, SENEK will store the Customer's data pursuant to the German Federal Data Protection Act (BDSG).

Last updated: September 2019