

General Terms and Conditions of Siemens EOOD, Smart Infrastructure, Business unit Building Products

1. Subject of the Agreement

The Customer receives the right to purchase under these general trading conditions specified products under the brand Siemens, to sell and install them to customers on its own behalf and for its own account. The products covered by the Agreement are listed in the price lists or offers that the Customer receives. The General Conditions apply to Customers of Siemens EOOD on the territory of the Republic of Bulgaria.

2. Entering into Agreement

Siemens EOOD shall issue to the Customer a formal offer in writing containing prices, approximate delivery time, payment terms and conditions and description of other specific conditions. The Agreement shall be deemed concluded upon the written confirmation of the Customer of the offer issued by Siemens EOOD and of the agreed payment terms.

3. Termination of the Agreement

The Customer may refuse the delivery if the product has not yet been sent from the factory – producer to Bulgaria. Supplies in storage may be refused in the event that Siemens EOOD has not sent the goods to the Customer.

4. Prices

Unless specified otherwise, all prices are in Euro, excluding VAT, including packaging and included transportation to the Customer or the warehouse of Siemens EOOD, depending on what is agreed in the confirmed offer. Express deliveries are paid extra by the Customer. Batteries and products containing batteries are not subject to express delivery.

Product prices are based on the price lists of Siemens EOOD Bulgaria and are valid for one fiscal year (01st of October – 30th of September). Siemens EOOD reserves the right to change its price list at any time. Certificate of origin and Euro 1 certificate for the products, for which they may be issued, shall be paid extra and must be requested at the time of ordering the goods by the Customer.

5. Payment terms

If not stated otherwise, the Customer must pay in advance when ordering goods. Payments are made by bank transfer in BGN on the exchange rate of BNB on the day of payment, to the account of Siemens EOOD.

In case of default of payment, Siemens EOOD reserves the right to refuse further deliveries to the Customer.

6. Execution of an order

The Customer shall order the necessary products and spare parts, on the basis of the offer issued by Siemens EOOD in written or electronic form. Siemens EOOD shall issue a pro-forma invoice in case of advance payment. Upon receipt of payment in his account, Siemens EOOD shall start the order and shall issue a confirmation that contains specific prices and terms of delivery. The minimum value of a single Customer order, for which no administrative fee for service is charged is EUR 500, excluding VAT. Orders under EUR 500 excluding VAT will be charged an administration fee by Siemens EOOD amounting to EUR 50 excluding VAT.

7. Terms of delivery

The standard delivery time is between two and three weeks after ordering. In case of availability of products in the warehouse of Siemens EOOD, the delivery time is 2 working days after the order, unless otherwise agreed. For certain products or quantities the possible delivery time can be different, which is further specified in the official offer. Unless otherwise specified in the offer, the delivery is DDP/DAP under the terms of Incoterms ® 2010. Siemens EOOD reserves the right not to deliver products that are not available in the factory. In this case, the Customer shall be notified immediately and if there is an advanced payment realized, the amount will be refunded in full. In this case, Siemens EOOD does not owe compensation for failure.

8. Acceptance of delivery

Goods are handed over to the Customer by signing a delivery-acceptance protocol or by the acceptance and signing of the transport document by the shipping agent. The Customer shall notify in writing Siemens EOOD within 3 business days from receipt of delivery for established quantitative and qualitative variations of the product which are not established at the time of acceptance. After this period, the delivered product is considered to be undamaged.

In case that after a written notification for the delivery of the ordered goods, made by Siemens EOOD, the same is not accepted by the Customer in the above manner, the acceptance will be deemed to be made within 2 (two) weeks from the date of receipt of the written notice by the Customer. In this case, Siemens EOOD has the right to unilaterally draw a delivery-acceptance protocol and consequently a final certificate of acceptance of the final subject of the Agreement/ the confirmed offer and will issue an invoice to the Customer. Minor inconsistencies that do not violate the operation and the operational safety of the equipment or reduce its functionality are not a reason for refusal the acceptance of the products of the delivery.

9. Risk and ownership

The risk transfer is done by signing the delivery-acceptance protocol or by the adoption and signing of the transportation documents by the shipping agent. The transfer of the ownership occurs with payment of the full price of the equipment.

10. Buy back of products

Siemens EOOD could, after signing an agreement, buy back products, provided that such products are still included in the product line and are not used, are packed in their original packaging and 3 months from their purchase have not passed. Siemens EOOD can buy back products if their value is not less 400 EUR total sum. Siemens EOOD is not obligated to buy back the products. At the return of the products an invoice for their purchase and a written justification of the reason for the request for purchase back should be applied. The Customer shall pay a service fee of at least 30 % of the net price, depending on the product group. The customer covers the costs for sending the goods to the office of Siemens EOOD.

Activated software licenses are not subject of return to Siemens EOOD.

11. Penalties

In the case that Siemens EOOD does not deliver the goods in accordance with the terms specified in the order confirmation, respectively the schedule for performance of the order (if any, agreed) it owes penalties amounting to 1% of the value of the delayed supply for each full week of delay, but not more than 10 % of full value.

Any other claims for damages for delay by the Customer are excluded.

If the Customer does not pay the goods and subject to the conditions of the offer accepted by him, he shall pay a penalty of 1% of the value of delayed payment for each full week of delay, but not more than 10 % of the same value, if not otherwise agreed.

In the case that the Customer fails to perform any of its other obligations under the confirmed offer he owes a penalty of 0.5% of the agreement value for each full week of delay in implementation, but no more than 10 % of the same value, unless otherwise agreed in the agreement/confirmed offer.

Events or circumstances that are considered force majeure, do not exempt the Customer from the liability to pay in the event that the maturity of that payment was due under the accepted offer.

12. Limitation of liability

The liability of Siemens EOOD for claims of any kind, for any loss or damage arising in connection with this Agreement, its implementation or infringement, cannot exceed the total amount of the confirmed offer and shall expire with the expiration of the obligations of Siemens EOOD on the offer.

Siemens EOOD is not responsible in case of stopping of the production of the Customer, lost profits, lost interest and other related damages, except in cases of gross negligence of Siemens EOOD.

13. Warranties

- Siemens EOOD ensures that the supplied products are new, unused, have passed all stages of production control and are consistent with the submitted specifications and technical documentation.
- The time period of the commercial guarantee of the standard products of Siemens, Building Technologies Direction is 24 (twenty- four) months from the date of delivery, respectively the signing of the delivery document (shipping document). For products with series G120P (Variable Speed Drives), series OEM (Burner control) and products that are not produced by Siemens Building Technologies (commercial products with Siemens logo), the warranty period is 12 (twelve) months or the special term, provided in the offer/ the price list for the respective product group.
- This warranty shall be valid upon presentation of proof of purchase of the product (invoice).
- The commercial guarantee shall not be provided and shall not be valid in the case of:
 - Improper storage before installation, exposure to adverse weather conditions or aggressive chemicals, violation of the requirements of Siemens EOOD.
 - Incorrect installation carried out in violation of the instructions of Siemens EOOD and the applicable law.
 - Damage caused by poor choice of materials for installation, alterations or repairs made by the Customer or any third party without the knowledge of Siemens EOOD.
 - Manipulation or unauthorized intervention on the technical integrity of the product or its components made by unauthorized personnel.
 - Improper maintenance and failure to follow the instructions for use and operation.
 - Wear out as a result of the normal use, wear and tear as a result of the impact of

force majeure or unforeseen external shocks and wear caused by unrecoverable software error.

- Faults in the hydraulic or electrical installation or improper construction in contrary to the instructions given by Siemens EOOD.
- In the event that during the warranty period, one or more manufacturing defects are established, the Customer must notify Siemens EOOD and to give him a chance to check the defective product, and shall provide a completed standard protocol for complaints to Siemens EOOD, Building Technologies Direction.

In this case, Siemens EOOD is obliged either to replace the advertised products with the same or equivalent model or to repair the damage and in some cases a credit note may be issued for the defective product at the selling price. Siemens EOOD should perform these actions in the shortest possible time, but not more than 30 days after the date of the signing of the complaints on his part. The warranty period does not start from the beginning in case of a replacement. If it is found that the defect is attributable to the Customer, all costs will be charged to it. The customer covers the costs for sending the goods to the office of Siemens EOOD.

- In case of disagreement between Siemens EOOD and the Customer on the reasons for defection, either party may determine the defect and the reasons with the help of an independent inspection company. The current expenditure on payment of such control examination on the causes of the defects shall be at the expense of the party requesting the same. The costs incurred, once the cause of the defect is established, shall be recovered by the responsible party to the other party.

14. Export control

I. Retention Clause

Siemens shall not be obliged to fulfill this agreement if such fulfillment is prevented by any impediments arising out of national or international foreign trade or customs requirements or any embargos or other sanctions.

II. Compliance with Export Control Regulations

1. If Recipient transfers goods (hardware and/ or software and/ or technology as well as corresponding documentation, regardless of the mode of provision) delivered by Siemens or works and services (including all kinds of technical support) performed by Siemens to a third party Recipient shall comply with all applicable national and international (re-) export control regulations. In any event of such transfer of goods, works and services Recipient shall comply with the (re-) export control regulations of the Federal Republic of Germany, of the European Union and of the United States of America.

2. Prior to any transfer of goods, works and services provided by Siemens to a third party Recipient shall in particular check and guarantee by appropriate measures that :

- There will be no infringement of an embargo imposed by the European Union, by the United States of America and/ or by the United Nations by such transfer, by brokering of contracts concerning those goods, works and services or by provision of other economic resources in connection with those goods, works and services, also considering the limitations of domestic business and prohibitions of by-passing those embargos;
- Such goods, works and services are not intended for use in connection with armaments, nuclear technology or weapons, if and to the extent such use is subject to prohibition or authorization, unless required authorization is provided;
- The regulations of all applicable Sanctioned Party Lists of the European Union and the United States of America concerning the trading with entities, persons and organizations listed therein are considered.

3. If required to enable authorities or Siemens to conduct export control checks, Recipient, upon request by Siemens, shall promptly provide Siemens with all information pertaining to the particular end customer, the particular destination and the particular intended use of goods, works and services provided by Siemens, as well as any export control restrictions existing.

4 Recipient shall indemnify and hold harmless Siemens from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any noncompliance with export control regulations by Recipient, and Recipient shall compensate Siemens for all losses and expenses resulting thereof.

15. Confidentiality

- Each Party shall observe confidentiality of all information and documentation received and supplied by the other party to the agreement/ confirmed offer which is identified as confidential and shall:
 - provide information and records only to those employees who need it to fulfill their obligations;
 - require their employees to treat such information and documentation confidentially as if they relate to their own confidential information;
 - issue or otherwise provide such information or documentation only after the prior written consent of the other party, which consent shall not be unreasonably withheld motivated objective reason.
- The above restrictions do not apply in cases of enforced legislation and where for the purpose to obtain official permits and licenses, necessary information and documents shall be presented before the competent authorities, as well as when this is required by the controlling authorities under their jurisdiction.
- In this case, the party taking such action, shall take the necessary care to respect the confidentiality of information provided by these authorities.
- The term for compliance with the confidentiality of the information provided is five years after the termination of the agreement between the parties.

16. Force Majeure

- Force Majeure shall be deemed to be (but not limited to) the following circumstances: war, an act of a civil or military authority, civil disturbance, insurrection or riot, sabotage, terrorism, natural disasters, epidemics, earthquakes, floods, strikes, riots and social unrest.
- In the case of "force majeure" so that these circumstances affect the obligations of both parties, the time for performance shall be extended by as much as they were in force.
- Each Party shall notify the other Party of the occurrence and the termination of the force majeure event within 10 working days of its occurrence, regardless of the nature of the event. This notification must be confirmed by the relevant authorities of the country where this event has occurred or proven otherwise beyond a reasonable doubt.
- In the event that the above notification and confirmation were not submitted within the agreed period, the affected party shall not be entitled to benefit from the rights that would give her the occurrence of force majeure.

- In the event of Force Majeure, provided that the event delays the implementation of the agreement by more than 60 days, the Customer and Siemens EOOD have the right to terminate it by signing a termination protocol. In this case, no penalties are due.

17. Software

Any software, whether used or not and which is delivered under this Agreement and is licensed by Siemens EOOD and its suppliers, should be used only for the purposes of the approved offer.

18. Product information

Any information and product data contained in catalogs, brochures and price lists are binding for Siemens EOOD only if they are specified and attached to the confirmed offer.

19. Changes

Quantitative increases, decreases, modifications and/ or other changes for which Siemens EOOD is not responsible and which are a result of a request of a Customer, changes in laws, regulations of the relevant authorities or changes in the technic will be checked with regard to their impact on prices and terms and will be offered to the Customer by Siemens EOOD. They should be assigned in writing before shipment.

20. Rights and obligations of the Parties of the Agreement

Neither party is entitled to transfer rights nor obligations to a third party without the written consent of the other party, which should not be unreasonably withheld.

Siemens EOOD has the right to assign the agreement together with all rights and obligations arising from it to another subsidiary of Siemens group.

The companies of Siemens Group will not be considered as a third party pursuant to this clause.

21. Arbitration

- All disputes arising from the interpretation and/ or implementation of this Agreement, the Annexes thereto and the related documents shall be settled by the parties by negotiation.
- In the event that the parties fail to reach an agreement within 60 days of the commencement of the negotiations or such negotiations do not begin until 30 days after the written invitation by one party to the other to conduct such negotiations, all disputes will be referred for settlement to the Arbitration Court at the Bulgarian Chamber of Commerce, according to its rules. The decisions of the arbitration shall be final and binding on both parties.
- The language for conducting of the arbitration proceedings is Bulgarian.
- The reference to arbitration shall not be considered a reason for the suspension of the execution of other obligations under this agreement/ confirmed offer.

22. Applicable law

On all outstanding issues, the provisions of the Bulgarian legislation shall apply.

23. Communication between the parties

- Official communication – all messages, announcements and/ or notices between Siemens EOOD

and the Customer in relation to the implementation of the agreement should be submitted in writing and submitted for signature to the responsible person or, if their handing over could be verified in any other way – by courier, fax or e-mail with a digital signature.

- Communication between the Parties shall take place in Bulgarian language.
- The parties shall be allowed informal communication in order to facilitate the implementation of the agreement – by phone, email, etc.

The informal communication has no legal value under this Agreement and is not considered officially accepted unless confirmed in writing.

24. Partial invalidity

- A decision of a competent court or arbitrator or arbitral tribunal or amendment of legislation which makes any provision of this Agreement invalid or unenforceable, will be limited to this provision and will not make the whole agreement or any other condition of it invalid, void or unenforceable, and all other conditions will remain in full force and effect.
- The Parties undertake the responsibility to make every effort to agree a valid, effective and enforceable provision to replace the provision deemed to be invalid, ineffective or unenforceable, that most closely reflects the purpose of the invalid, ineffective or unenforceable provision.

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