

## General Terms & Conditions for delivery of supplies and provision of services for use in business transactions with companies

### I. General provisions

(1) These General Terms & Conditions of Business shall form an integral part of the contractual relationships between the Contractor and Customer. For current business this shall also apply in the event of contracts concluded by fax or telephone. The Customer's purchasing terms that deviate from these conditions shall be valid on a case-by-case basis only and only if this has been confirmed in writing by the Contractor. Fulfilment of the contract by the Contractor shall not replace this written confirmation.

(2) If individual provisions of these General Terms & Conditions of Business are or become ineffective or void, this shall not affect the effectiveness of the remaining provisions. The legally effective arrangement that most closely approaches the purpose pursued by the ineffective/void provision shall replace the ineffective/void provision. This shall also apply to completion of possible contractual lacunae.

### II. Quotation and conclusion of contract

(1) All the Contractor's quotations shall be without obligation and non-binding unless expressly identified as binding, or if they include a specific deadline for acceptance.

(2) The contract shall come into being only upon written order confirmation or signature of the written contract. Order confirmation or the written contract shall reproduce in full any agreements between the contracting parties concerning the subject of the contract. The Contractor shall confirm any collateral agreements, amendments or supplements in writing. With the exception of directors or procurists, the Contractor's employees shall not be authorised to make verbal agreements that deviate from this.

### III. Prices

(1) The prices shall apply to the provision of services and scope of supply detailed in the order confirmation or written order. Prices shall be understood to be in EUROS, net ex works (the Contractor's premises), plus statutory value added tax and any packaging and shipping costs and any other national duties incurred for sale and supply.

(2) The Contractor shall be authorised to increase the agreed prices if circumstances change after conclusion of contract, in particular if an increase in the price of raw materials and salary and transport costs occurs. In this case, prices may only change within the scope of and to compensate for the stated price and cost increases.

### IV. Invoicing and payment terms

(1) The following payment terms shall apply if no other agreement has been reached as a result of our quotation or in connection with the written order confirmation:

- a) 30% payment on account following receipt of the order confirmation or receipt of the written contract,
- b) 30% payment on account after notification of readiness for despatch,
- c) another 40% on passing of risk.

The rights of retention due to the Customer arising from section 320 German Civil Code (BGB) shall not be affected by this.

The Contractor shall draw up invoices for each of the payments on account due and other payments due that are payable without deduction within seven days of the invoice date.

(2) The Customer can declare offsetting with counterclaims only if the debts in question are uncontested or have been established as being legally enforceable.

(3) Retention of payment by the Customer shall be excluded if the counterclaims result from a different contract. If the counterclaim is based on the same contract, retention of payment shall be permitted only if there are counterclaims that are uncontested or that have been established as legally enforceable.

(4) In the event of default on a payment the Contractor shall be entitled to withhold the deliveries or other services under all contracts until complete fulfilment of all the Contractor's claims against the Customer.

The Customer can avert this right of retention by provision of a directly enforceable, unlimited guarantee from a bank licensed as a customs or tax guarantor to the value of all the outstanding claims. After a payment deadline set for the Customer has expired abortively, we shall also be entitled to rescind any other contracts that have not yet been executed. We reserve the right to assert further compensation claims for default.

### V. Technical information and documentation

(1) The documentation pertaining to the quotation or confirmation of order, such as drawings and illustrations, information on dimensions and weight, and other information and performance data shall be binding only if they are expressly designated as binding. Information about the subject of the delivery or

performance shall otherwise be viewed as approximate only. In particular they shall not represent guarantees, merely descriptions and identification of the goods. The same shall apply to a reference to bodies of technical regulations, such as DIN standards and the like.

(2) The drawings, calculations, software, descriptions, models, tools, etc. prepared or provided by the Contractor shall remain the Contractor's property, regardless of whether the Customer is charged costs for these. The copyright to such documentation shall also be due the Contractor. The Customer may not make these objects per se or their content accessible to third parties, publish them, use or reproduce them themselves or through third parties without the Contractor's express agreement. At the Contractor's request the Customer shall return all of these objects to the Contractor and destroy any copies that may have been made if the Customer no longer needs them in the ordinary course of business or if negotiations do not lead to conclusion of a contract.

### VI. Delivery and delivery deadline

(1) Deliveries shall be effected ex works, which shall also be the place of performance for the delivery and any supplementary performance.

(2) Unless expressly specified otherwise in the order confirmation or contract, the stated delivery dates and delivery periods shall be non-binding information and no warranty shall be assumed for compliance with this.

(3) The delivery period shall commence on the date of final order confirmation or signature of the contract, but not before complete clarification of all details of execution, in particular receipt of any documents to be supplied by the Customer and receipt of an agreed down payment due on conclusion of contract. Compliance with the delivery deadline also requires the Contractor's fulfilment of the contractual obligations.

(4) The contractually agreed delivery period shall be extended - without prejudice to the Contractor's rights arising from default - by the period during which the Customer defaults on its obligations arising from this or another contract.

(5) The Contractor shall not be liable for impossibility of delivery or for delivery delays if these have been caused by force majeure or other events that could not be foreseen at the time of conclusion of the contract (e.g. stoppages or breakdowns of any kind, difficulties procuring materials or energy, transport delays, strikes, legal lockouts, lack of labour, energy or raw materials, difficulties procuring the necessary official permits, official action or absent, incorrect or untimely delivery by suppliers), for which the Contractor is not responsible. If such events make delivery or performance much more difficult or impossible for the Contractor, and the impediment is more than just temporary, the Contractor shall also be entitled to rescind the contract. In the event of temporary obstacles, the delivery or performance deadlines shall be extended or postponed by the length of the obstacle, plus an appropriate starting period.

(6) If the Customer is entitled to compensation for default, the liability for each complete calendar week of the delay shall be limited to 0.5% of the net price (delivery value), but to a maximum of 5% in total of the delivery value of the goods supplied late.

The Contractor shall retain the right to prove that the Customer incurred no loss at all, or only a much smaller loss than the above lump sums.

(7) If the Customer is entitled to compensation instead of performance, the entitlement shall be limited to a maximum of 5% of the net price (delivery value). The Contractor shall retain the right to prove that the Customer incurred no loss at all, or only a much smaller loss than the above lump sums.

### VII. Assembly/installation

(1) If the parties have agreed that the Contractor shall assemble/install the products to be supplied by it, subject to a written agreement to the contrary the Customer shall be responsible for the assembly being carried out without impediment from third parties and without interruption. In particular, the Contractor shall be responsible for correct and timely completion of any equipment and facilities and/or ensuring the conditions that are required for installation/assembly of the product in question and/or correct operation of the product when assembled.

(2) Unless expressly agreed otherwise in writing, in each case the Customer shall ensure at its expense and risk that

- a) as soon as the Contractor's personnel reach the installation site, they can assume their work and carry it out during normal working hours, and also outside normal working hours if the Contractor deems it necessary, provided that the Contractor informs the Customer of this in good time;
- b) suitable accommodation and facilities are available for the Contractor's personnel, as required by official regulations, the contract or customary practice;
- c) the access routes to the installation site are suitable for the transport required;
- d) the intended installation site is suitable for storage and assembly;
- e) the necessary safe storage areas for materials, tools and other goods are available;

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- f) the necessary, customary additional helpers, aids and working materials (fuels, oils and lubricants, polishing agents and other incidentals, gas, water, electricity, steam, compressed air, heating, lighting, etc.) and the measuring and testing equipment customary for Customer's business are provided for the Contractor on time, free of charge and in the right place;
- g) all the necessary safety and precautionary measures have been taken and will be observed, and all measures have been taken and will be observed that ensure that assembly/installation complies with the applicable national regulations;
- h) all the necessary products are present in the right place at the start of and during installation/assembly.

(3) If execution of the Contractor's works is impeded by circumstances for which the Customer is responsible, the Customer shall be obliged to reimburse the additional expenses incurred as a result of this, such as working time, travel expenses, etc., and to compensate any other losses incurred as a result.

**VIII. Passing of risk and acceptance**

(1) Unless expressly agreed otherwise, the risk of accidental loss of and deterioration in the goods (passing of risk) shall pass to the Customer on handover of the subject of delivery to the carrier or haulage contractor. This shall also apply to prepaid delivery, CIF, FOB and similar transport clauses. In the case of transportation by the Contractor's vehicles and employees, any risk shall pass to the Customer on completion of the loading process. In the event of late delivery for which the Contractor is not responsible, any risk shall pass to the Customer on the date of receipt of readiness for despatch. If acceptance is to occur, this shall be authoritative for passing of risk.

(2) If acceptance must take place, the subject of the contract shall be deemed to have been accepted when

- the delivery and - if the Contractor also owes installation/assembly - the assembly/installation is complete;
- the Contractor informs the Customer of this, indicating the assumption of acceptance, and has asked the Customer to take delivery;
- ten working days have elapsed since delivery or completion or the Customer has started to use the product (e.g. is operating the product supplied) and in this case five working days have elapsed since the delivery or assembly/installation,

and

- the Customer has omitted to take delivery within this period for a reason other than a defect notified by the Contractor that makes use of the product impossible or significantly prejudices such use.

Negligible defects shall not give entitlement to refusal of acceptance.

(3) If an acceptance test has been agreed, the Customer shall give the Contractor an opportunity to carry out the required test after delivery or, if assembly/installation has been agreed, after assembly/installation and to undertake the improvements and/or modifications that the Contractor deems necessary. The acceptance tests shall be carried out in the Customer's presence as soon as possible after request by the Contractor. The Customer shall provide the necessary equipment and the necessary, customary assistance, aids and working materials for delivery and any tests, as well as adequate quantities of representative samples of the materials to be processed in good time, free of charge, in the correct location for the Contractor, so that the product operating conditions envisaged by the parties can be reproduced as accurately as possible.

(4) If despatch or acceptance is delayed or omitted as a result of a circumstance whose causes lies with the Customer, risk shall pass to the Customer from the date of despatch or acceptance readiness. In this case the Contractor shall be entitled to invoice the Customer for the costs incurred as a result, including the costs for storing the product.

**IX. Retention of title**

(1) The Contractor shall retain title to the products it supplies and the items that may ensue from their treatment and processing until fulfilment of all its present and future claims, including contingent and limited, against the Customer, arising from the business relationship, irrespective of the legal grounds. In the event of the Customer defaulting on payment, the Contractor shall be authorised to assert the rights arising from retention of title, including without rescinding the contract.

(2) The Customer shall be obliged to store the reserved goods separately and to identify them. The Customer shall undertake any treatment and processing for the Contractor without obligations for the Contractor ensuing from this. If the Customer processes reserved goods with items owned by the Customer, the Contractor alone shall be due the title to the new items.

If the Customer processes reserved goods with other items that it does not own, the Contractor shall be due joint ownership of the new items pro rata to the value of the processed reserved goods compared to the other items at the time of treatment and processing. The Customer hereby transfers to the Contractor any joint ownership shares arising from combining, commingling or mixing the supplied goods with other items. The Contractor shall possess the items as custodian. It shall be liable for its own wilful and negligent behaviour, also for that of its legal representatives and of the persons that it uses to fulfil its obligations. The Customer may only sell the supplied goods and the items

ensuing from their treatment, processing, combination, commingling and mixing in due and proper business transactions for cash payment or subject to retention of title. Transfer by way of security, pledging and other methods of disposal that prejudice the Contractor's rights shall not be permitted.

(3) The Customer hereby assigns in full to the Contractor the claims due it from resale or another cause concerning the reserved goods, including those for compensation for damage or destruction of the reserved goods, regardless of whether they are contractual or legal claims against the perpetrator of the damage, insurance company or other third party, and those for compensation for use derived.

(4) If the Customer sells the reserved goods with its own or third-party goods in an unprocessed condition, the Customer shall assign the claim arising from the resale to the Contractor to the value of the reserved goods. If the share of the sale price incurred on sale of our reserved goods is greater than the value of the reserved goods, the Contractor shall also be due the additional sum.

(5) If the Contractor acquires joint ownership of the new object through treatment or processing of the reserved goods with goods from other suppliers, assignment in the event of resale shall include a share of the claim that corresponds to the Contractor's joint ownership share if this can be determined; otherwise the invoice value of the processed reserved goods.

(6) If treatment or processing occurs within the scope of a work contract or contract for work and materials, the Customer shall also assign in advance to the Contractor the pro rata wage entitlement that corresponds to the value of the processed reserved goods.

(7) As long as the Customer fulfils its obligations, assignment shall be treated as undisclosed assignment and the Customer shall be authorised to collect the debt. The Customer shall post the sums allocated to the assigned claim and retain them separately.

(8) In the event that contracts concluded by the Customer as part of resale of the reserved goods should be ineffective or void, instead of the assigned contractual claims the Customer hereby assigns to the Contractor the statutory claims due it, in particular enrichment claims, to the same extent.

(9) If and insofar as registration and/or fulfilment of other requirements are a prerequisite for the retention of title's effectiveness, the Customer shall be obliged to undertake immediately any actions necessary for this at its expense and to make all necessary disclosures.

(10) If the value of the securities exceeds the Contractor's claims by more than 10%, the Customer shall be entitled to demand release of securities in this respect.

(11) The Customer shall notify the Contractor immediately of third-party access to the reserved goods or assigned claims, surrendering the documents necessary for the intervention. The Customer shall bear the costs of the intervention.

(12) The Customer shall bear the cost of return transport of the reserved goods.

**X. Liability for material defects and compensation claims**

(1) The provisions of the German Commercial Code (HGB) apply for investigation of the goods and notification of defects, with the following proviso:

- a) Immediately after delivery the Customer shall be obliged to investigate for obvious defects the properties of the goods decisive for the respective use and to notify the Contractor immediately in writing of obvious and/or identified defects with immediate suspension of treatment and processing. In the event of intended installation or affixing of the goods, the properties decisive for installation or affixing shall also be considered to be the goods' intrinsic properties and in this respect a random sample function test or test installation are to be carried out before installation or affixing.
- b) Violation of the obligations to carry out investigations and to notify defects represent a particularly serious disregard of the due diligence required in business and therefore gross negligence vis-à-vis the Contractor and claims for defects are excluded. Anything else shall apply only if the Contractor maliciously concealed the defect and/or has assumed a guarantee for the item's quality.

(2) If a defect for which the Contractor is responsible is present in the subject of the contract, the Customer shall first be due supplementary performance as a claim for defects. In this respect, as it chooses the Contractor shall first fulfil the warranty by rectification or substitute delivery or production of a new work. If both forms of supplementary performance are associated with disproportionate expense within the terms of section 439(4) of the German Civil Code or section 635(3) of the Civil Code, the Contractor shall be entitled to refuse both forms of supplementary performance.

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(3) The expenses necessary for checking and supplementary performance, especially transport, toll fees, costs of work and materials, as well as installation and removal costs, shall be born by the Contractor according to the statutory regulations if the complaint is justified and a defect is actually present. In the event of an unjustified request to rectify defects by the Customer, the Contractor shall be entitled to request reimbursement of the costs it has incurred, unless the lack of defectiveness was not apparent to the Customer.

If the Customer has incorporated the defective item into another item in accordance with its nature and intended use, or affixed it to another item, the Customer can request compensation for the expenditure required to remove the defective item and installation or affixing of the rectified or non-defective item supplied. The Customer's consequential loss caused by defects, such as lost profit, failure costs or additional costs for replacement purchases are not removal and installation costs and therefore not subject to compensation as reimbursement of expenditure in accordance with section 439(3) or 635(2) of the German Civil Code.

(4) If the supplementary performance fails or if the Contractor justifiably refuses it, the Customer can demand rescission of the contract or reduction of the payment. The Customer shall not be due a right of rescission for a minor breach of contract, especially for a minor defect.

(5) The Customer's compensation claims shall be excluded, regardless of the legal grounds. This shall not apply if the Contractor, its legal representative or vicarious agents have acted wilfully or grossly negligently or in accordance with the German Product Liability Act, or there is compelling liability due to losses attributable to the Contractor arising from injury to life, limb and health, or violation of material contractual obligations. Compensation for violation of material contractual obligations shall, however, be limited to predictable losses typical of the contract, unless malice or gross negligence are present or there is compelling liability due to losses attributable to the Contractor arising from injury to life, limb and health.

(6) For defects in other manufacturers' products, which the Contractor cannot remedy on licensing or de facto grounds, as it chooses the Contractor shall assert its warranty claims against the manufacturer and suppliers for the Customer's account, or assign them to the Customer. Warranty claims against the Contractor shall exist for such defects under the other terms and according to these General Terms & Conditions of Business only if legal enforcement of the above claims against the manufacturer and suppliers was unsuccessful or is futile, due to an insolvency, for example. For the duration of the legal dispute, time barring of the Customer's applicable warranty claims against the Contractor are frustrated.

(7) Claims for defects shall not exist for, inter alia, only trivial deviation from the agreed property, an insignificant impairment of the useability, for natural wear or damage that occurs after passing of risk as a consequence of incorrect or negligent handling, disproportionate strain, unsuitable means of production or due to particular influences for which the contract does not make provision. If the Customer or third parties undertake inexpert modifications, installation, removal or maintenance work, claims for defects shall not apply to these and the resulting consequences either.

(8) It is the Customer's sole responsibility that the quality and properties of the goods are suitable for its specific intended use. Accordingly, the suitability that is not present shall not give rise to any claims unless the Contractor has expressly warranted in writing the goods' suitability for the intended use. Our quality information shall not constitute a guarantee in the legal sense. This shall not affect any manufacturers' guarantees.

(9) The Customer's claims for defects shall lapse one year from delivery or, if acceptance is required, from acceptance. Anything else shall apply only if the Contractor has maliciously concealed the defect or longer periods are mandated by law. Delivery of used products agreed with the Customer on a one-off-basis shall take place with any warranty for material defects being excluded.

(10) The Customer's compensation claims on grounds of a defect shall lapse in one year from delivery of the goods (acceptance at the works). This shall not apply if the defect is based on malice or gross negligence or failure to comply with guarantees and there are losses attributable to the Contractor arising from injury to life, limb and health.

(11) Negotiations between the parties shall not lead to inhibition of time barring according to section 203 German Civil Code.

(12) The limitation period shall not begin again from the start in cases of supplementary performance.

(13) Advice from the Contractor's employees shall not constitute a contractual legal relationship or an accessory obligation arising from the contract, so subject to other agreements expressly issued in writing, the Contractor shall not be liable on the basis of such advice.

(14) The Contractor shall not be obliged to take back contractually supplied goods. Any withdrawal requires prior agreement on the goods to be withdrawn and the payment to be made for these. Withdrawal will not be considered if the goods are special models.

#### XI. Product liability

The Contractor shall be subject to product liability according to the respective applicable laws of the Federal Republic of Germany. Any liability that exceeds the statutory regulations is hereby excluded.

#### XII. Data privacy clause

The orderer is hereby informed that - if legally permitted - personal data will be collected, stored and processed. Further information can be found in the data privacy statement stored on the Internet at [www.has-firepacks.com](http://www.has-firepacks.com) and which can also be requested from HSA Firepacks GmbH's data protection officer.

#### XIII. Concluding provisions

(1) The place of performance and jurisdiction for all disputes arising from each transaction to which these General Terms & Condition of Business apply shall be the Contractor's place of business for both lawsuits brought by the Contractor and those brought against the Contractor.

(2) The relationships between the contracting parties shall be solely subject to the law of the Federal Republic of Germany, excluding international private law and the Contract for the International Sale of Goods (CISG).

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