

## **General Terms and Conditions - Terms and Conditions of Purchase**

Applicable to business transactions with companies, public law entities and special funds under public law.

### **1. Scope of deliveries and services**

1.1. *These Terms and Conditions of Purchase shall apply to any and all current and future contracts and business relationships with regard to the manufacture and sale of goods and services. We shall not accept any terms and conditions of the customer that are conflicting with or deviating from these Terms and Conditions of Purchase unless specifically agreed upon in writing in the individual case. Changes to individual provisions of these Terms and Conditions of Purchase shall not affect the remaining provisions hereof which shall remain in full force and effect. Any special conditions agreed upon for a particular business transaction that deviate from these Terms and Conditions of Purchase shall have priority over and shall be supplemented by these Terms and Conditions of Purchase.*

1.2. Any terms and conditions of purchase sent to us shall not be deemed accepted unless we confirmed them in writing. The customer's deviating terms and conditions shall not apply even if we do not expressly object to their applicability.

1.3. We reserve the utilisation rights with regard to title and copyright to all cost estimates, drawings and other documents without limitation and they must not be disclosed to any third party without our prior consent. Documents and drawings that are part of an offer must be immediately returned to us if the order is not placed and/or not fully executed.

1.4. The customer shall not be entitled to assign its claims resulting from the purchase contract without our written consent unless section 354a of the Commercial Code applies.

1.5. Agreements made orally or on the phone or agreements made with our representatives / employees shall not be legally binding unless confirmed in writing.

### **2. Offers and prices**

Our offers and prices are without engagement and not binding for subsequent orders. In addition, the list prices as of the time of shipment shall apply unless otherwise agreed upon in writing and are subject to prior sale.

### **3. Retention of title**

We retain the title to all goods we delivered and to all new products made by processing the goods we delivered until full payment of all our claims arising from the business relationship (current account retention). The customer shall only be entitled to re-sell the goods we delivered and the products based thereon in the ordinary course of business. The customer shall be obliged to retain title to the sold items until such third-party purchaser paid the full purchase price. For security purposes, the customer hereby assigns to us any claim the customer is entitled to based on such re-sale or any other legal reason resulting from the disposal. *We hereby accept such assignment.* The customer shall be entitled to collect such assigned claims as long as the customer fulfils all payment obligations to us in accordance with the contract. Otherwise, we shall be entitled to inform the third-party purchaser of such assignment and to collect such claims ourselves. The customer shall be obliged to inform us of any attachment by third parties to the goods that are subject to retention of title or to the assigned claims as well as of any risks to our rights. The customer shall be obliged to pay to us any amounts the customer collected in our name with regard to the assigned claims.

If the value of the security provided to the seller exceeds its entire claims by more than 20 %, the seller shall be obliged to release such part of the security as the seller deems fit upon request of the purchaser.

### **4. Terms of payment**

Unless specific terms of payment were agreed upon, invoiced amounts shall become due for payment upon delivery in cash or by transfer to one of our accounts free of charge. Any special conditions resulting from the invoice shall rank prior to the conditions hereof. The customer shall be entitled to set off its payment obligations against any claims that are undisputed or recognised by declaratory judgment. Rights of retention may only be asserted if they are based on the same contractual relationship.

*The customer agrees that all business transactions may be secured by a credit insurance and that the required data of the customer and of the contract shall be transmitted to the insurance company.*

### **5. Terms of delivery and service**

5.1. *The term of delivery shall commence on the day we accept the order, however, not before all details relating to the execution of the order are clarified. Such term of delivery shall be non-binding unless we expressly stated a certain term of delivery. We shall only be able to observe such term of delivery provided we receive in due time all documents to be provided by the customer, all required permits, releases, clarification and approval of plans and provided all agreed upon payment terms and other obligations are fulfilled. If these pre-conditions are not fulfilled in time, the delivery period shall be extended accordingly.*

5.2. The period shall be deemed complied with:

a) upon delivery without erection or installation if the shipment of operational items was dispatched or picked up within the agreed upon term of delivery or service. In case of any delay of delivery attributable to the customer's sphere of responsibility, the term of delivery shall be deemed complied with if the notice that the goods are ready for dispatch was given within the agreed upon period of time;

b) upon delivery with erection or installation, if effected within the agreed upon period of time.

5.3.

a) In case such delay in delivery or service is caused by mobilisation order, war, riots, strikes, lock-outs or the occurrence of any unforeseeable events beyond our control, the term of delivery shall be extended by an appropriate period of time.

b) In case of any non-compliance with the term of delivery for reasons other than those stated in 5.3.a) above, the customer shall be entitled to set a grace period of 14 days and then, if the customer can prove that it suffered a damage from such non-compliance, it shall be entitled to demand damages amounting to 0.5 % of the value of that part of the deliveries and services that could not be put into operation due to the delayed completion of individual related items for each full week of delay after expiry of the grace period, up to a maximum amount of 5 % of such value. *We shall be entitled to prove that no damage incurred or that the damage incurred was lower than that.*

The customer shall also be entitled to demand payment of the damages for delay if the circumstances described in 5.3.a) occur after the initially agreed upon period of time was culpably not complied with. Any other claims of the customer shall be limited to 3 times the net delivery value in all cases of delayed delivery, including after expiry of a grace period. This shall not apply to the extent such delay is caused by the supplier's or any of its officer's wilful intent or gross negligence.

c) The customer's right to rescind the contract after unsuccessful expiry of a reasonable grace period granted to the supplier for performance or subsequent performance shall remain unaffected.

5.4. In case of any delay in shipment or delivery attributable to the customer's sphere of influence, we shall be entitled to demand payment for storage. Such payment for storage shall amount to 0.5 % of the invoice amount for each month or part of month, starting upon notification that the goods are ready for dispatch, however, not more than 5 % of the invoice amount other than in cases of gross negligence or wilful intent (evidence required). The customer shall be entitled to prove that no storage costs incurred or that the storage costs actually incurred were lower.

### **6. Transfer of risk**

Shipment shall be effected at the recipient's risk. Transport insurance shall only be effected upon the customer's express request. The same shall apply to deliveries carriage paid and to deliveries by company-owned vehicles.

### **7. Acceptance**

7.1. The customer shall not be entitled to refuse acceptance based on immaterial defects.

7.2. Partial deliveries shall be admissible unless they conflict with the customer's relevant interests.

### **8. Warranty**

8.1 *Should our deliveries or services show a defect in quality within the warranty period, we shall be entitled, in our discretion, to choose whether we repair such defect free-of-charge, effect a new delivery and/or render new services.*

8.2 *The customer's warranty claims shall become statute-barred 12 months after delivery, unless longer periods are expressly provided for by applicable law. This shall neither apply to claims from building contracts, to claims for damages based on injury to life, limb or health nor to claims based on fraudulent conduct.*

8.3 *The customer shall be obliged to notify us of any defects in quality without delay. Such notification must be in writing and contain an exact description of the defect. In addition, the regulations of the German Civil Code and of the German Commercial Code, in particular sections 377 and 378 of the German Commercial Code, shall apply.*

8.4 *In any case, we must be granted the opportunity to rectify a defect within a reasonable period of time. We shall be entitled, in our sole discretion, to effect a new delivery instead of rectifying such defect. In order to enable us to fulfil our warranty obligations, the customer shall be obliged to grant us access to the relevant business premises and sites.*

8.5 *The customer shall not be entitled to any claims for damages against us or our vicarious agents. However, this shall not apply to any injury to life, limb or health. In addition, the exclusion of liability shall not apply if the damage occurred due to our legal representatives or vicarious agent's wilful intent or gross negligence.*

## **9. General limitation on liability / statute of limitations**

*9.1 Our liability for us and our officers and other vicarious agents for any violation of contractual and non-contractual obligations, in particular due to impossibility, delay, culpa in contrahendo and tort shall be limited to wilful intent and gross negligence and to the typical damage foreseeable at the time the contract was concluded.*

*9.2 These limitations shall apply to any culpable violation of material contractual obligations, i.e. those contractual obligations the fulfilment of which is essential for the due execution of the contract and on the fulfilment of which the other contractual party may rely. These limitations shall also apply in case the fulfilment of the purpose of the contract is at risk, in cases of mandatory liability in accordance with the Product Liability Act, in case of injury to life, limb or health and if and to the extent we fraudulently concealed a defect and/or expressly warranted that such defect did not exist.*

*9.3 Unless otherwise agreed upon, contractual claims the customer may have against us based on or in connection with the delivery of the goods shall become statute-barred one year after delivery of the relevant goods. Our liability for wilful and grossly negligent violations of our contractual obligations shall remain unaffected thereby.*

## **10. Place of performance and place of venue**

10.1. *The contractual relationship shall be subject to German Law, the UN Sales Convention shall be excluded.*

10.2. Place of performance shall be the seat of our company. The place of venue for any disputes arising in connection with the con-

tract, for any actions based on cheques or bills of exchange shall be the seat of our company, if the customer is a merchant that has been entered in the commercial register.

## **11. Severability clause**

Should individual provisions of this contract be or become invalid, this shall not affect the effectiveness of the remaining provisions thereof. However, this shall not apply to cases in which the compliance with the provisions of this contract would constitute unreasonable hardship for either party. The provisions of all sections shall only apply to merchants who have been entered in the commercial register.

## **12. Note to the consumer arbitration process**

Haake Technik GmbH do not take part in the consumer arbitration process according to the German directive "Verbraucherstreitbeilegungsgesetz", which is the law concerning the arbitration process of consumer disputes.

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