

General Terms and Conditions of Purchase

of Hauhinco Maschinenfabrik G. Hausherr, Jochums GmbH & Co. KG

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1. General Notes, Scope

- 1.1 Our orders and requests shall exclusively be subject to these general terms and conditions of purchase („GTC“). The GTC shall apply to all future transactions and no additional reference to the GTC shall be required. Our GTC shall also apply if we are aware of contradictory, deviating or additional general terms and conditions of the contractor when accepting purchased goods from the contractor. General terms and conditions of the contractor which contradict, deviate from or exceed our GTC shall under no circumstances be binding for us, even if we do not explicitly object to such general terms and conditions of the contractor unless, however, we explicitly consent to their application in writing.
- 1.2 The legal relationship between us and the contractor shall exclusively be governed by the signed written agreement and these GTC. Supplements and amendments to the written agreement, including these GTC, require the written form to be effective (§ 126 BGB). Oral agreements and particular understandings between the contractor and us do, however, prevail and shall be confirmed in writing.
- 1.3 Any declarations or notifications with binding effect given by the contractor to us after the conclusion of the agreement must be given in writing.
- 1.4 References to the application of statutory provisions shall only be made for clarification purposes. Therefore, the statutory provisions shall apply to the agreement even without being referenced in these GTC unless such provisions are explicitly amended or excluded.
- 1.5 These GTC apply only to business people within the meaning of § 14 BGB (German Civil Code), legal persons under public law or special funds under public law.

2. Orders and Conclusion of Contract

- 2.1 Orders and agreements between the contractor and us are binding only if they are made or confirmed in writing. The contractor shall usually confirm our orders within one week. If we ask for samples of the goods, the serial production may only start after we have approved the sample in written form.
- 2.2 The customer shall notify us without undue delay in the event of deviations from our order or the specification, condition, quality or performance of the goods and services to be delivered. Such deviations constitute an amendment of the agreement and require our prior written consent.
- 2.3 Our prior consent shall be required to pass on the order or parts thereof to a third party (sub-contractor) unless the passed-on task is rather a minor associated task. In any event, the contractor remains responsible for the entire performance of the third party, irrespective of whether or not we have consented to the respective subcontractor.
- 2.4 We reserve the right of ownership and the copyright as well as any other right in respect of any tools, patterns, manufacturing equipment and other objects as well as any information and documents such as in particular, but without limitation, plans, illustrations, drawings,

indications of weight and dimension, performance and consumption data as well as technical data and descriptions ("Tools"), which we provide to the contractor for performance of the orders. The Tools may not be disclosed or otherwise made available to any third parties (including any subcontractor to the contractor) without our prior written consent, in particular any information and documentation provided by us must be kept strictly confidential. At our request, and in any case if the order is completed, the customer shall immediately return to us or destroy, at our discretion, the Tools and any reproduction thereof (including digital copies). The same shall apply once the customer no longer takes advantage of Tools in the context of the order and if negotiations between us and the customer do not result in the conclusion of a contract. Any right of retention of the customer with regard to the Tools shall be excluded.

3. Prices, Terms of Payment, Default

- 3.1 The prices agreed upon conclusion of the contract, in particular the prices indicated in the order form or in the order confirmation, shall apply. Price reductions made by the contractor during the term of an order shall apply to all further deliveries. Unless otherwise stated, prices shall be understood as fixed prices including all shipping and handling charges as well as custom duties, fees, country-specific taxes on foreign delivery and other public charges. They shall also include the costs of any necessary technical documentation and manuals, spare parts lists, circuit diagrams, technical drawings, printing material and films. All prices shall include the applicable VAT.
- 3.2 We reserve the right to refuse payment for performance exceeding the order and to make a corresponding deduction from the agreed price in case of reduced performance. The contractor shall inform us in advance if for technical reasons tolerances in the produced quantity cannot be excluded and shall start the serial production only upon our prior approval.
- 3.3 If the contractor settles his services on an hourly basis, he shall provide sufficient evidence of the performed services in a form acceptable to us.
- 3.4 We shall be obliged to reimburse the contractor for any costs of construction or acquisition of tools, models or equipment which are required for the performance of our order only if we have assumed such costs in writing and the ownership of these objects is transferred to us without restriction.
- 3.5 We shall pay the agreed order price at our option either (i) within fourteen days from the receipt of the goods and of the invoice (in which case we shall be entitled to a discount of 2% of the order price) or (ii) at the end of the month following the receipt of the goods and of the invoice. We ask for submission of any bills in triplicate and separate from the shipment of the goods. Any bills shall include detailed order information and shall display the sales tax rate and respective amount separately. We do not accept invoices for a portion of the order price.
- 3.6 All payments are subject to the accuracy of the delivery and invoice as well as the goods being free of defects.
- 3.7 We shall be entitled to pay by cheques or bill without particular approval. Our right to deduct any discount remains unaffected.
- 3.8 The customer shall only be entitled to a right to set-off or to a right to retention if his counter-claim is undisputed, is admitted by us or has been finally established and is non-appealable or if his counter-claim and our claim are connected by a legal relationship of mutuality within the meaning of § 320 BGB (German Civil Code).

4. Delivery and Transfer of Risk

- 4.1 With the exception of cases of force majeure, the agreed delivery periods and dates are binding and shall be strictly observed by the parties. If the contractor foresees his failure to deliver on the agreed delivery dates, he shall notify us in writing without undue delay. If the expected delay is material in a way that we cannot reasonably be expected to adhere to the contract, in particular if the delay might cause a breach of our contractual obligation towards our customers, we shall be entitled to award the order to another supplier even before the agreed delivery date or to purchase the ordered goods from any other supplier without being obliged to purchase the goods from the contractor. The contractor is obliged to reimburse our additional costs for the replacement purchase. If no replacement purchase takes place and if the contractor fails to deliver the goods until the agreed delivery date or within the delivery period, we shall be entitled to claim at our discretion either supplementary performance and damages for delayed delivery or damages for non-performance and/or to cancel the contract according to the applicable legal provisions. In particular, we shall be entitled to claim from the contractor refund of any damages payments and/or any contractual penalties which we are obliged to pay legitimately to our customers because of the delayed delivery by the contractor.
- 4.2 Unless otherwise agreed the contractor shall deliver the goods at its costs to the destination provided in the order. All accompanying documents shall be included in triplicate. The order number, the drawing number and the article number mentioned in the order shall be included. We shall be entitled to refuse acceptance of the delivery without being in delay if proper accompanying documents are not included in the delivery.
- 4.3 The risk of accidental loss and accidental deterioration of the goods shall pass to us only upon written confirmation of the acceptance of the goods by our qualified staff. If acceptance is required, this shall be decisive for the transfer of risk.

5. Retention of Title

- 5.1 Any material supplied by us for the execution of our order remains our property.
- 5.2 The contractor undertakes to handle any material supplied by us with due care; he is particularly obliged to insure such material at his own expense to the replacement value against loss, damage or destruction, e.g. damages through fire, water and theft. The contractor hereby assigns its rights arising out of or in connection with the insurance contracts to us. We hereby accept such assignment.
- 5.3 The contractor shall indicate the material as our property and indicate our property rights to third parties, for example in case of attachment on his business property. He is not entitled to pledge or assign the material in our property by way of security. In the case of attachment or other interventions by third parties the contractor shall notify us without undue delay.
- 5.4 The processing or the alteration of the material supplied by us under retention of title shall always be done by the contractor on our behalf without giving rise to any liabilities on our part. If the material supplied by us under retention of title is processed together with additional material not in our ownership, we shall acquire co-ownership of the resulting goods in proportion to the value of our material to the other processed materials at the time of the processing (regarding the total invoice including VAT). The provisions applicable to the materials supplied by us under retention of title shall also apply to the goods resulting from the processing. If the material supplied by us under retention of title is inseparably mixed or combined with additional material not in our ownership, we shall acquire co-ownership of the resulting goods in proportion to the value of our goods to the mixed or combined materials at the time of the mixing or the combination (regarding total invoice including VAT). If the mixing

or the combination occurs in a way that the contractor's resulting item is to be deemed as the main item, it shall be agreed that the contractor transfers prorated co-ownership to us. The contractor shall retain the arising sole ownership or co-ownership for us.

- 5.5 This clause 5 shall apply *mutatis mutandis* to such items in which we acquire sole ownership or co-ownership due to the processing or combination or mixing of the goods.

6. Compliance

6.1 The contractor undertakes to maintain a quality management system at least complying with ISO 9001. As evidence for the maintenance of an appropriate quality management system, the contractor undertakes to provide us with copies of the respective valid certificates without being asked. We reserve our right to audit the compliance with applicable standards.

6.2 The contractor warrants that the devices or installations which are to be delivered comply with the provisions for the prevention of accidents of the employer's liability insurance association, the provisions of the German Product Safety Act, the applicable provisions of VDE as well as the respective most recent version of the VDI-Guidelines and that all of the necessary measures required by the provisions above will be taken.

6.3 During installation and construction work the contractor is responsible for safeguarding compliance with all applicable accident prevention regulations, the generally recognized safety and industrial medicine regulations as well as for the safeguarding of the workplace and the construction site. Until final acceptance of the deliveries and performances, the contractor shall be responsible for all accidents arising during his work. All employees of the contractor who work on our property shall comply with our company regulations.

7. Warranty

7.1 If the delivery/performance of the contractor is not free of defects or if the agreed qualities are not met, we shall be entitled to claim supplementary performance (cure) and/or damages according to applicable law, unless these GTC provide otherwise.

7.2 In cases described in No. 7.1 the contractor must also bear all expenses required for the purpose of cure within the meaning of § 439 para. 2 and 3 BGB (German Civil Code). This contractor's statutory requirement is indispensable.

7.3 The contractor must bear all expenses required for the purpose of review and cure within the meaning of No. 7.2 as well, if it turns out, that there actually was no defect. Our liability for damages in cases of unjustified demands for remediation shall not be affected by this stipulation; however, we are only liable if we have recognized or grossly negligent did not recognize that there was no defect.7.4 If the contractor does not comply with his cure duties – at our choice by remediation or by the supply of a thing free of defects – within a reasonable period specified by us, we shall be entitled to remedy the defect ourselves and to demand reimbursement of the necessary expenses and an appropriate advance payment from the contractor. If the cure by the contractor has failed or cannot reasonably be expected of us (e.g. due to special urgency, endangerment of operational safety or imminent occurrence of disproportionate damage), no specification of a period of time is required; in such circumstances we will inform the contractor immediately, if possible beforehand.

7.5 In case of supplementary performance, the warranty period shall restart, if due to the scope, duration and costs of the respective supplementary performance an implied acknowledgment of the contractor can be assumed.

7.6 The contractor undertakes to hold spare parts available for a period of 10 years and, after this period, to supply us at market terms and conditions, irrespective of whether or not the warranty period has expired.

7.7 The contractor shall indemnify us from any third party claims, in particular those resulting from product liability, which are caused by defects of his products or by his performance in respect to our products, including the delivery of the raw material.

8. Entrepreneur's recourse

8.1 In addition to the claims for defects we are also entitled to the legally determined recourse claims within a supply chain without limitation (entrepreneur's recourse pursuant to §§ 445a, 478 BGB [German Civil Code]). In particular, we are entitled to demand exactly the type of cure (remediation or supply of a thing free of defects) from the contractor, which we owe to our customer in each particular case. Our legal choice (§ 439 para. 1 BGB [German Civil Code]) is not limited by this.

8.2 Before we acknowledge or comply with a defect claim asserted by our customer (including reimbursement of expenses pursuant to §§ 445a para. 1, 439 para. 2 and 3 BGB [German Civil Code]), we will inform the contractor with a brief summary of the facts and ask for a written statement. If the statement is not delivered within a reasonable period of time and if no consensual solution is brought about, the claim of defects actually granted by us shall be deemed to be owed to our customer; in this case the contractor is entitled to present the counter evidence.

9. Place of performance, place of jurisdiction

9.1 The place of performance for all deliveries and performances shall be the production site given in the order. Venue for all claims between us and merchants or legal entities under public law or special fund under public law shall be Sprockhövel, unless mandatory statutory law provides otherwise. We reserve the right to bring a court action against the contractor at his legal court of jurisdiction.

9.2 The legal relationship between us and the contractor or between us and a third party shall exclusively be governed by the laws of the Federal Republic of Germany, as it applies to merchants in Germany. The provisions for the international sale of goods (CSIG) and the German private international law shall be excluded.

10. Final Provisions

10.1 Should any provisions of these GTC be invalid or impracticable or overruled by special agreements, the other provisions of these GTC shall remain unaffected.

10.2 As a matter of public relations, the contractor may only refer to us if we have in advance consented in writing.

10.3 Any personal data of the contractor arising from our mutual business relationship is stored in accordance with the German Data Protection Act.

10.4 This document is a convenience translation of the German "Allgemeine Einkaufsbedingungen". In any event the German version shall prevail.