

# General Terms and Conditions Horstkötter GmbH & Co. KG, 59269 Beckum

## 1. Scope of Application

1.1 These general terms and conditions apply to all contracts between the supplier and the customer regarding the delivery of systems and purchased items (delivery item). Special conditions apply to the assembly, commissioning and monitoring of systems and special designs.

1.2 Different terms and conditions of the customer are hereby contradicted. The customer's terms and conditions only become part of the contract if the supplier expressly consents to them in writing. Individual agreements made with the customer in individual cases take precedence over these terms and conditions.

## 2. Conclusion of Contract

2.1 A contract comes into being through an offer and acceptance. Acceptance with changes is considered a new offer. Acceptance by the supplier takes place through a written sales order confirmation.

2.2 Unless otherwise agreed in writing, the supplier is bound to his offers for a period of three months.

2.3 Offers marked as "budget quotation" are subject to change and non-binding. The contract comes into existence through our written sales order confirmation.

2.4 Supplements and changes after conclusion of the contract or verbal side agreements must be confirmed by the supplier at least in text form in order to be effective.

2.5 The content of the contract results from the order confirmation, the planning documents and other contract documents as well as from the information in general service descriptions and product catalogues. Information in general service descriptions and product catalogues is non-binding until confirmed by the supplier. We reserve the right to printing errors, model and price changes.

2.6 The customer is liable for the correctness and completeness of the documents (drawings, samples etc.), which he makes available to the supplier before or after the contract is concluded. Verbal information about dimensions and the like must be confirmed by the supplier at least in text form.

2.7 The supplier reserves his property and his copyright, usage and exploitation rights without restriction on cost estimates, drawings and other documents. The documents may only be made available to third parties with the prior consent of the supplier and, if a contract is not concluded, must be returned to the supplier or deleted immediately. Sentences 1 and 2 apply accordingly to the customer's documents; however, these may be made accessible to third parties whom the supplier involves in the planning or implementation of the contract for the purpose of providing the service.

## 3. Prices and payment conditions

3.1 The agreed prices or the current price list of the supplier apply.

3.2 The prices are ex works of the supplier in Beckum, excluding packaging, freight, postage and insurance and plus the applicable statutory sales tax.

3.3 If the supplier has taken over the installation or assembly and nothing else has been agreed, the purchaser bears all the necessary ancillary costs such as travel and transport costs as well as trips in addition to the agreed remuneration.

3.4 Payments are to be made within 14 days of the invoice date without any deduction to the supplier's paying agent. This does not apply to contract manufacturing, repair and spare parts shipments that are due immediately net cash. The legal rules regarding the consequences of late payment apply. Special conditions apply to custom-made products. Checks are only considered payment when they are cashed.

3.5 The customer can only offset such claims that are undisputed or legally established.

## 4. Delivery

4.1 The delivery period results from the agreements of the contracting parties. The delivery period is met if readiness for dispatch has been reported by the end of the delivery period. If an acceptance has to take place, the acceptance date is decisive, alternatively the notification of readiness for acceptance.

4.2 The customer is obliged to cooperate. In particular, he is obliged to provide documents, obtain the necessary permits, grant approvals and meet his payment obligations.

4.3 The delivery period is extended by an appropriate period in the event of late payment by the customer, the customer's failure to cooperate, subsequent changes requested by customer, cases of force majeure (natural disasters, epidemics, etc.) or unforeseen interruptions in the supplier's supply chain

4.4 If the supplier does not perform within the original or extended delivery period, the customer can withdraw from the contract if he has unsuccessfully determined a reasonable extension period for the supplier and the customer is responsible for the unsuccessful expiry of the extension period.

The circumstances mentioned in 4.3 extend the grace period by a reasonable amount of time.

4.5 If, at the request of the customer, dispatch or delivery is delayed for more than one month after notification of readiness for dispatch by the supplier, the customer is obliged to pay storage fees for each month commenced in the amount of 0.5% of the price of the objects of the deliveries, however at most in total 5%. The contracting parties are free to prove higher or lower storage costs.

## 5. Transfer of risk

5.1 Unless otherwise stated in the order confirmation, delivery "ex works" is agreed. The risk passes to the purchaser when the goods are made available for collection or notification of readiness for dispatch.

5.2 The supplier undertakes to take out transport insurance at the request of the customer. The customer bears the cost of the insurance.

5.3 Transport and all other packaging will not be taken back by the supplier. The customer is obliged to dispose of packaging at his own expense.

## 6. Retention of title

6.1 The supplier retains ownership of the delivery item (reserved goods) until all payments from the delivery contract have been received.

6.2 In the event of behaviour contrary to the contract, in particular in the event of late payment, the supplier is entitled to take back the goods subject to retention of title and the buyer is obliged to surrender them.

6.3 Taking back the goods subject to retention of title does not constitute a withdrawal from the contract unless the supplier has expressly declared this in writing. The seizure of the goods subject to retention of title by the supplier always means a withdrawal from the contract. After taking back the reserved goods, the supplier is authorised to use them.

6.4 The customer is obliged to treat the reserved goods with care; in particular, he is obliged to adequately insure them against fire, water and theft damage at replacement value at his own expense. If maintenance work and inspections must be performed, the purchaser must carry these out on time at its own expense.

6.5 The purchaser may neither pledge the reserved goods nor assign them as security. In the event of seizures or other interventions by third parties, the customer must immediately notify the supplier in writing so that the supplier can bring an action in accordance with section 771 of the ZPO (Code of Civil Procedure). If the third party is unable to reimburse the supplier for the judicial and extrajudicial costs of a lawsuit in accordance with § 771 ZPO, the purchaser is liable for the loss incurred by the supplier.

6.6 The customer is entitled to use the goods subject to retention of title and to resell them in the ordinary course of business as long as he is not in arrears with his payment obligations. The purchaser assigns the claims arising from the sale to its business partners to the supplier as a precaution. The supplier accepts the assignment.

6.7 The supplier revocably authorises the customer to collect the claims assigned to the supplier for his account in his own name. This does not affect the supplier's right to collect the claims itself. However, the supplier will not collect the receivables himself and will not revoke the direct debit authorization as long as the customer fulfils his payment obligations properly, does not fall into arrears and, in particular, there is no application to open insolvency proceedings or payment is suspended. If this is the case, the supplier can demand that the customer notify him of the assigned claims and their debtors, provide all the information required for collection, hand over the associated documents and notify the debtors of the assignment.

6.8 The processing or transformation of the reserved goods by the customer is always carried out for the supplier. If the reserved goods are processed with other objects that do not belong to the supplier, the supplier acquires co-ownership of the new item in the ratio of the value of the reserved goods to the other processed objects at the time of processing. For the thing resulting from processing, the same applies as for the reserved goods.

6.9 If the goods subject to retention of title are inseparably mixed with other objects not belonging to the supplier, the supplier shall acquire co-ownership of the new item in the ratio of the value of the goods subject to retention of title to the other objects mixed at the time of mixing. The purchaser shall store the resulting item of sole proprietorship or co-owned property for the supplier.

6.10 The customer also assigns to the supplier the claims to secure the supplier's claims against the customer, which arise from the connection of the goods subject to retention of title to a third party.

6.11 The supplier undertakes to release the securities to which he is entitled at the request of the customer insofar as the realizable value of the securities exceeds the claims to be secured by more than 20%; the supplier is entitled to choose between various security rights when it is released.

6.12 The application to open insolvency proceedings entitles the supplier to withdraw from the contract and to demand the immediate return of the reserved goods.

## 7. Claims for defects

7.1 Claims for defects on the part of the purchaser presuppose that the purchaser has properly complied with his inspection and notification obligations owed pursuant to Section 377 HGB.

7.2 If the customer requests supplementary performance within the framework of a contract for work, the supplier can choose to remedy the defect or create a new plant. Replaced parts become the property of the supplier.

7.3 The customer must give the supplier the necessary time and opportunity to carry out all subsequent improvements and replacement deliveries that the supplier deems necessary; otherwise the supplier is released from liability for the resulting consequences. The customer only has the right to have the defect remedied by himself or by a third party and to demand reimbursement of the necessary expenses from the supplier in urgent cases where operational safety is endangered or to prevent disproportionate damage.

7.4 If the purchaser or a third party improperly undertakes remedial action, there is no liability of the supplier for the resulting consequences. The same shall apply to any changes to the delivery item made without the prior consent of the supplier.

7.5 The purchaser can withdraw from the contract if he has unsuccessfully determined a reasonable period for supplementary performance and the purchaser is responsible for the unsuccessful expiry of the extension period. The circumstances mentioned in 4.3 extend the grace period by a reasonable amount of time.

## 8. Liability

8.1 The supplier is fully liable for damage resulting from injury to life, limb or health and for other damage in the event of intent and gross negligence.

8.2 Liability for slight negligence in violation of non-essential contractual obligations is excluded.

8.3 If the purchaser's fault was involved in the occurrence of the damage, the supplier's obligation to compensate for the damage and the extent of the compensation to be paid depend on the circumstances, in particular on the extent to which the damage was caused primarily by the supplier or the customer. This also applies if the fault of the customer is limited to the fact that he has failed to draw the supplier's attention to the risk of unusually high damage, which the supplier neither knew nor needed to know, or that the customer failed to avert or mitigate.

8.4 The above provisions do not imply a change in the purchaser's burden of proof.

## 9. Limitation period

9.1 Claims of the customer expire one year from the transfer of risk.

9.2 Claims for damages due to injury to life, limb or health or due to wilful or grossly negligent behaviour become statute-barred in accordance with the statutory provisions.

## 10. Software use

10.1 Insofar as software is included in the scope of delivery, the purchaser is granted a non-exclusive right to use the supplied software including its documentation. All other rights to the software and the documentation including the copies belong to the supplier or the software supplier. Sublicensing is not permitted.

10.2 The customer undertakes not to remove manufacturer's information - in particular copyright notices - or to change them without the prior express consent of the supplier.

## 11. Data protection

The customer agrees to the storage, processing and use of the personal data transmitted to the supplier for the purpose of executing the order and for the duration of the statutory retention requirements.

## 12. Final provisions

12.1 For all legal relationships between the supplier and the customer, the law of the Federal Republic of Germany applies exclusively, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

12.2 The sole place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is the registered office of the supplier if the customer is a merchant. However, the supplier is also entitled to file suit at the customer's registered office.