

General terms and conditions



1. SALES

All offers only apply if a decision is made immediately. The following standard terms of sale apply to the present contract and to all future contracts, even if our terms are not referred to again later; they apply to the exclusion of any standard contract terms of the purchaser, even if we have not expressly rejected these. We accept no responsibility for terms agreed by our salespeople or travelling representatives separately from these terms of sale. Sales and special terms agreed by our salespeople or travelling representatives are subject to our express and written confirmation.

2. PRICES

The prices agreed are calculated on the basis of our current costs. Should costs unexpectedly increase before the date of call-off or delivery, we expressly reserve the right to adjust our sale prices accordingly, including for the present transaction. Unless otherwise agreed, the prices apply from our plant and exclude packing. If franco prices are agreed, we will deliver the goods unstamped on an ex station basis. Normal freight costs actually incurred will be included on the invoice. Prices are subject to the addition of VAT at the current statutory rate.

3. PACKING

We do not take back paper or cardboard packing materials. We use only standard packing materials. If smaller amounts are ordered, we will round up accordingly.

4. DELIVERY TIMES

- 1) The delivery times which we quote are with reservations.
- 2) In the event of action in connection with labour disputes, in particular strikes and lockouts, or of unforeseen difficulties beyond our control which can be shown to have a significant effect on the production or delivery of the item to be supplied, the delivery period will be extended accordingly. This will also apply if such circumstances affect our own suppliers. We cannot be held responsible for the above mentioned circumstances, even if they arise at a time when we are already in arrears.
- 3) If we are in arrears as defined in these terms of delivery and the Orderer then grants us a reasonable extension of deadline accompanied by an express warning that after the expiry of this period he will refuse to accept delivery, the Orderer will be entitled to withdraw from the contract if the extended deadline is not met. To the extent legally possible, any more far-reaching claims of the Orderer are hereby excluded, in particular including claims to rescission, termination, a reduction of the price or compensation for losses of whatever kind, including damage not suffered to the item ordered itself.
- 4) Should an unforeseen event as specified in Subsection 4.2 of these terms of delivery occur which significantly alters the economic significance or the nature of what is to be supplied or has a significant effect on our business, or should it later turn out to be impossible to execute the order, the contract will be amended as appropriate. If this is not economically reasonable, we will be entitled to withdraw from the contract in whole or in part. The Orderer will not be entitled to claim damages on the basis of such a withdrawal.
- 5) If the Orderer suffers a loss due to a delay for which we are to blame, he will be entitled to claim compensation for that delay, subject to the exclusion of all further claims. This compensation has to be agreed individually.
- 6) Adherence to delivery periods is conditional on the Orderer fulfilling his contractual obligations.

5. DISPATCH

Deliveries will be in all cases, unless otherwise agreed, at the expense and risk of the consignee. All consignments will be arranged in accordance with our best judgment, but without any responsibility for selecting the cheapest and quickest form of transport.

6. CREDITWORTHINESS

We will only enter into a business relationship and supply on credit if we receive a satisfactory credit report. We will not be bound even if an order is confirmed before the receipt of a report.

7. PAYMENT

Our invoices are payable according to the mentioned conditions on the order confirmation, respectively on the invoice. If a payment deadline is not met, we reserve the right to charge interest on arrears at the normal private bank interest rate. If we receive an unsatisfactory report or if the Orderer's financial position deteriorates, we will be entitled to require the outstanding balance and we reserve the right to withdraw from current contracts. If a due invoice is not paid even after two formal reminders, all other outstanding invoices will become due immediately and we reserve the right to require their immediate payment in cash, even if the agreed deadlines have not yet expired.

8. RESERVATION OF TITLE

We reserve title to items supplied until all claims against the Orderer arising out of the business relationship have been settled, including claims arising in future on the basis of contracts concluded at the same time or later. This will apply even if some or all claims have been placed in a current account and the balance struck and accepted to be correct. If the Orderer commits a breach of contract, in particular if he falls into arrears with payment, we will, after issuing a formal reminder, be entitled to take back the item supplied and the Orderer will be under an obligation to hand over that item. Unless the German Hire Purchase Act applies, the taking back or seizure of goods by us will only represent withdrawal from the contract if we state this expressly in writing. The Orderer must inform us immediately in writing in the event of seizure or other action by third parties which affects items supplied. The Orderer is entitled to resell the supplied items in the normal course of business. However, he hereby assigns to us with immediate effect all claims which may accrue to him against the purchaser or third parties out of such a resale, regardless of whether items subject to our reservation of title (reserved items) are resold with or without further processing. The Orderer remains entitled to collect such claims after the above assignment. This does not affect our authority to collect them ourselves, but we undertake not to collect such claims as long as the Orderer meets his payment obligations as agreed. We may demand that the Orderer supplies us with details of the claims assigned and the relevant debtors, provides us with all of the information necessary for collection, hands over the relevant documents and notifies the debtors of the assignment. If an item supplied is resold together with other goods which do not belong to us, a share of the Orderer's claim against the purchaser equivalent to the sale price agreed between us and the Orderer is hereby assigned.

Any processing or transformation of reserved items by the Orderer is in all cases carried out on our behalf. If a reserved item is processed together with other items which do not belong to us, we will acquire joint title to the new item in proportion to the ratio of the value of the reserved item to that of the other items processed at the time of processing. Furthermore, the same applies to the item produced by processing as to the reserved item. We hereby undertake to release securities to which are entitled to the extent that their value exceeds the claims to be secured and not yet satisfied by more than 20%.

9. WARRANTY

- 1) Complaints about immediately detectable defects, in particular incomplete consignments, will only be accepted up to 8 days after receipt of the goods.
- 2) If goods arrive damaged, a written record of the facts must be demanded from the transport firm or postal or parcels service concerned in order to preserve the right to claim damages against them.
- 3) In the case of defects in consignments, including the absence of expressly guaranteed characteristics, we undertake, subject to the exclusion of all further claims, to repair or replace at our discretion, free of charge, all items which turn out to be unusable or of not insignificantly reduced usefulness within 6 months of their being put into service due to a circumstance which applied before the passing of risk. We must be notified immediately in writing if such defects are discovered. Replaced items will become our property.
- 4) The Orderer will be entitled to withdraw from the contract if we culpably fail to meet a reasonable extended deadline granted to us for a repair or replacement which is necessary because of a defect within the meaning of the terms of delivery for which we are responsible. The Orderer is also entitled to withdraw if we are incapable of repairing or replacing an item or if it is impossible for us to do so.
- 5) To the extent legally permissible, all other more far-reaching claims by the Orderer, in particular to rescission, termination, reduction of the price and compensation for losses of whatever kind, including damage which is not suffered to the item to be delivered itself, are hereby excluded.

10. DEFECTS OF QUALITY

- 1) The quality of the goods will be exclusively as specified in the agreed technical delivery terms. If we are instructed to supply items on the basis of drawings, specifications, samples etc. supplied by our contract partner, the latter must bear responsibility for their suitability for their intended use. The relevant time for the determination of whether items are as contractually agreed is the time of the passing of risk.
- 2) We are not responsible either for defects of quality resulting from inappropriate or improper use, incorrect assembly/installation/putting into service by our contract partner or a third party, normal wear and tear or incorrect or careless treatment, or for the results of inappropriate modifications or repair work carried out without our consent by our contract partner or a third party. The same applies to defects which reduce the value or usefulness of the goods concerned only to an insignificant degree.
- 3) Claims based on defects of quality will expire by limitation as prescribed by law, unless otherwise agreed.

11. OTHER CLAIMS, LIABILITY

- 1) Unless otherwise specified below, any other more far-reaching claims against us by our contract partner are hereby excluded. This applies in particular to claims for damages based on breaches of obligation or on tort. We are therefore not liable for damage or loss which is not suffered to the items to be delivered themselves. Above all, we are not liable for loss of profit or any other pecuniary losses suffered by our contract partner.
- 2) The above limitations of liability do not apply in the case of deliberately caused loss, gross negligence by our legal representatives or executive staff or culpable breach of essential contractual obligations. In the case of a culpable breach of essential contractual obligations we are – except in cases of deliberately caused loss or gross negligence by our legal representatives or executive staff – only liable for reasonably foreseeable losses typical of the type of contract concerned.
- 3) The above limitation does not apply either to liability under the German Product Liability Act for personal injury or damage to items in private use resulting from defects in goods supplied. Neither does it apply to injury to life, limb or health or the absence of guaranteed characteristics, if and to the extent that such a guarantee was provided specifically for the purpose of protecting our contract partner against losses not suffered to the items supplied themselves.
- 4) Exclusions or restrictions of our liability apply equally to the personal liability of our employees, legal representatives and vicarious assistants.
- 5) The above is without prejudice to legal provisions governing the burden of proof.

12. RETURN OF GOODS

We will only take goods back by prior agreement. If goods are returned, we reserve the right to deduct the costs which we incur from the amount credited.

13. CUSTOMISED PRODUCTION

Over- or underproduction by up to 10% is permissible.

14. PLACE OF PERFORMANCE

The place of performance for all obligations arising out of the business relationship is Schramberg.

15. LEGAL VENUE

The Local Court in Stuttgart.

16. AGREEMENTS

Agreements which deviate from the above will only be binding on us if they are confirmed by both parties in writing.

Schramberg, January 1st 2022, HECO-Schrauben GmbH & Co. KG