

Terms of Sale and Delivery as well as General Terms and Conditions of Business

of the Werkzeugbau Siegfried Hofmann GmbH for Transactions outside of the European Union

revised: August 2020

1. Scope of Application

(1) Any deliveries of goods, provisions of services and transactions of our group of companies towards / with enterprises or legal entities under public law or special assets regarding deliveries and services within the territory of the Federal Republic of Germany shall be effected exclusively in accordance with the terms of sale and delivery as well as the general terms and conditions of business specified hereinafter. These terms and conditions form part of any contracts which we conclude with our contractual partners with respect to deliveries, services and any other objectives of our company. They shall also apply to any future business transactions even if they are not agreed separately once more after the first transaction.

(2) Our contractual partners' terms and conditions of business shall not apply, even if we have not separately contradicted the validity of any of their individual provisions. Even if our contractual partners should refer to their conditions of purchase, terms of sale, terms of delivery, terms of production and/or terms and conditions of business in one or more letters directed to us or if they should otherwise make them available to the public or to their contractual partners, this does not constitute any consent to the validity of such terms and conditions of business on our part. They shall not become provisions of the contract by any acceptance of an order or any other conclusive conduct, either.

2. Contract of Manufacture, Offers, Written Form, Weights, Dimensions etc

(1) Any contracts between our business partners and our group of companies regarding the manufacture of items and/or machines shall always be concluded by means of a covenant in writing, i.e. an instrument, which must be signed by both parties (hereinafter referred to as 'contract of manufacture'). If such a contract does not exist at the outset, the parties shall be obligated to enter into an individual contract in written form which portrays the verbal agreements precisely even after the start of production. The obligation to conclude a contract of manufacture in written form is not superseded by a commercial letter of acknowledgement.

(2) The legal relations between our contractual parties and us are governed by (1.) the contract of manufacture within the meaning of No. 2 s. 1 and, unless otherwise agreed in the contract of manufacture, in addition, by (2.) these terms of sale and delivery as well as our general terms and conditions of business. These documents fully reflect any verbal agreements made between our contractual partners and us. Verbal agreements are superseded by the contract of manufacture and these general terms and conditions of business insofar as any such individual verbal agreement does not contain the stipulation that it shall continue to be valid nonetheless.

(3) Any additions and amendments to the contract of manufacture and the general terms and conditions of business must be in writing in order to be legally effective.

(4) All our offers are without engagement and non-binding unless they have been explicitly described as firm offers. If any of our offers has not been explicitly declared to be firm or if it does not contain a fixed period of acceptance and our contractual partner accepts such an offer, a contract shall only be deemed to have been concluded upon our written acknowledgement.

(5) Any indications concerning the object of the relevant delivery or service (e.g. weights, dimensions, practical values, resilience, tolerances and technical data) as well as our depictions of the same (e.g. drawings and illustrations) are only approximate and not absolutely authoritative unless the usability for the purpose intended by the contract requires exact correspondence. They do not represent guaranteed features of quality or nature, but descriptions or characterisations of the delivery or service in question. Deviations which are usual in commercial practice or such deviations which occur due to legal requirements or constitute technical improvements as well as the replacement of components with parts of equal value shall be admissible insofar as they do not impair the usability for the purpose intended by the contract.

(6) We reserve ownership of or the copyright on any offers or quotations made or given by us as well as any drawings, illustrations, calculations, brochures, catalogs, models, tools and other documents or auxiliary means provided by us. Our contractual partner shall not be permitted to make these items themselves or their content available to any third parties, to make them publicly known, use or photocopy them or do so through any third parties without our explicit consent. At our request the contractual partner shall return any such items to us completely and destroy any copies which may possibly have been made if they are no longer required by the former in the ordinary course of business or if any negotiations do not result in the conclusion of a contract.

3. Prices

(1) The prices apply to the scope of service and supply as well as to the business volume specified in the contract under No. 2 s. 1. Any increased or extra performance shall be charged separately. Our prices are to be understood in EUROs, ex works plus packaging, the statutory value added tax as well as possible export costs, fees and other public charges.

(2) In the event of a considerable change of cost factors we shall be entitled to change the price(s). Such cost factors comprise an unforeseeable increase in personnel costs due to industrial action etc, a great rise in the price of raw materials - also and especially if such a price rise is caused by shifts in exchange rates or other difficulties on the procurement market - as well as other unpredictable major production obstacles which may arise as a result of a considerable change of energy costs, natural disasters or any impediment to transport routes which cannot be anticipated. If any of our prices must be increased, we shall notify our contractual partner of such an increase without delay, i.e. within 14 days of our becoming aware of the factors justifying the rise in prices. In this case our contractual partner shall be entitled to withdraw from the contract within another 14 days upon being served with our notification. Such a notice of cancellation must be in writing in order to be legally effective.

4. Delivery

(1) Unless otherwise agreed, our deliveries are effected EXW (Incoterms 2010 = ex works), 96215 Lichtenfels, An der Zeil 2 (Werkzeugbau Siegfried Hofmann GmbH).

(2) The fulfillment of the obligations to supply and render services by us presupposes the punctual and due fulfillment of the obligations existing on the part of our contractual partners. We can - without prejudice to the rights ensuing from default - insist on an extension of any deadlines for deliveries or services

or a postponement of delivery dates or service dates by a relevant period if our contractual partner fails to comply with its contractual obligations towards us.

(3) Any performance periods and dates concerning deliveries or services stated by us shall always be regarded as merely approximate unless a fixed deadline or date has been expressly promised or agreed. Insofar as dispatch has been agreed, the delivery periods and delivery dates shall refer to the point in time at which the consignment in question is handed over to the freight forwarder, carrier or any other third party entrusted with the transportation.

(4) Insofar as it has been agreed that a fixed quantity must be supplied within a set period and that our contractual partner shall have the right to determine the delivery date (quota on the basis of a call-off order), the consignments must be called off from us at least twelve weeks before the delivery date desired. In the event that such call-offs are not made within the set period, we can deliver the quantity which has not yet been called off and charge the contractual partner for the same as soon as the set period has lapsed.

(5) We shall not be liable for any impossibility of delivery or delays in delivery insofar as they have been caused by force majeure or any other incidents which were unforeseeable at the point in time at which the contract was concluded (e.g. all sorts of interruptions of operation or service, difficulties in procuring materials or energy, delays in transport, strikes, lawful lockouts, lack of human resources, lack of energy or raw materials, difficulties in procuring an official authorization required, measures taken by authorities or any deliveries by suppliers which either fail to materialize or are effected wrongly or not on time) for which we are not responsible. If such events complicate any delivery or provision of service for us considerably or render the same impossible and if such an impediment is not only of limited duration, we shall have the right to withdraw from the contract. In the event of temporary hindrances deadlines for deliveries or services shall be extended or dates for the performance of deliveries or services shall be postponed by the duration of the impediment plus an appropriate warm-up period. Insofar as our contractual partner cannot be reasonably expected to accept the delivery or service because of the delay, it shall be entitled to withdraw from the contract by means of an immediate declaration in writing.

(6) We shall have the right to effect partial deliveries if

- the partial delivery is usable within the framework of the intended use specified in the contract,

- the delivery of the remaining goods ordered is guaranteed and

- our contractual partner does not incur any great additional expenditure or excess costs (unless we agree to assume such costs).

(7) If we fall behind with any delivery or service or if the performance of such a delivery or service becomes impossible for us -regardless for what reason -, our liability for damages shall be limited in accordance with No.9 of these terms and conditions.

5.Storage and Acceptance

(1) The storage costs shall be borne by our contractual partner after passing of the risk. With respect to the storage of prefabricated components by us the storage costs amount to 0.25 % of the invoice amount of the delivery items to be stored per each week gone by. As regards the storage of tools the storage costs amount to 0.5 % of the invoice amount of the tools to be stored per each week gone by. The right to assert and prove higher or lower storage costs is reserved. We store prototype tools for 2 years at maximum. The storage of chases, dies, molds, accommodations, seats, gauges and tools is effected for three years at maximum. After the storage period has lapsed, we shall be entitled to destroy the prototype tools or the chases, dies, molds, accommodations, seats, gauges and tools. The destruction shall be communicated four weeks in advance by means of a written notice. A transmission of such a notice by e-mail or fax shall suffice to satisfy the observance of the written form.

(2) Insofar as the implementation of an inspection is required, the item in question shall be deemed to have been accepted if fourteen working days have passed since the delivery or installation or if the principal has to utilize the object of purchase (e.g. by putting the tools supplied into operation) and if seven working days have passed since the delivery or installation in the latter case. This shall not apply if there is a defect which renders the utilization of the object supplied by us impossible or if it greatly affects the latter and if our contractual partner has complained about this defect in writing before the aforementioned time limits have expired. The complaint shall be regarded as having arrived on time if it reaches us no later than 3 days after it has been sent to us.

6.Payment

(1) Unless otherwise agreed, any payments are to be effected without deductions into one of our bank accounts within 14 days of receipt of the invoice. The invoice shall be deemed to have been served on the customer within 3 days of despatch unless our contractual partner can prove that the opposite is the case.

(2) The date on which payment has been received by us shall be deemed to be the date of payment. Any payment by check shall be regarded as having been effected only after the check has been cashed. If our contractual partner fails to effect payment by the settlement date, the outstanding amounts shall be subject to penal interest at 8 percentage points above the base interest rate as from the due date in accordance with § 247 s. 1 BGB (Federal German Civil Code); in any case such amounts shall be subject to interest of at least 8% per year. The right to assert higher interest or claims arising from any further loss in the event of default shall remain unaffected.

(3) Unless otherwise agreed, 50 per cent of the agreed (purchase) price to be paid to us shall fall due and payable upon placement of an order and another 50 per cent upon delivery.

(4) We shall be entitled to make any further deliveries conditional on the punctual receipt of payment.

(5) We shall have the right to perform or render any deliveries or services which are still outstanding only for payment in advance or the provision of a surety if any circumstances become known to us after conclusion of the contract which are likely to greatly diminish our contractual partner's creditworthiness and by which the payment of our receivables to be effected by the contractual partner under the terms of the relevant contractual relationship (including any other individual agreements governed by the same skeleton contract) is jeopardized. In this case we shall also be entitled to withdraw from the contract and insist on immediate payment and/or restitution of the items previously delivered. If the reclaimed items have already been used, we shall have the right to demand a reasonable consideration for use. Should the reclaimed items have been reduced in value due to their use or for any other reasons lying within the sphere of our customer's responsibility, we shall, in addition, be entitled to demand compensation for the decrease in value.

(6) Any setoff with counter-claims by our contractual partner or retention of payments by our contractual partner due to such claims shall only be admissible insofar as the counter-claims are uncontested or have been officially found to be legally valid.

7.Warranty

- (1) The warranty period shall be one year as from delivery or, insofar as an inspection is required, one year as from the inspection.
- (2) The items supplied must be examined immediately and with due care upon delivery to our contractual partner or to the third party designated by the former. They shall be deemed to have been approved unless we receive a written complaint regarding obvious defects or any other defects which were discernible in the course of a prompt and careful examination within seven workdays after supply of the delivery item or otherwise within seven workdays after discovery of the defect or at any earlier point in time at which the defect was detectable for the principal during normal use of the delivery item without any closer examination having been effected. At our request the delivery item faulted must be returned to us carriage free. If a complaint is justified, we shall reimburse the customer for any loss incurred provided that the most inexpensive shipping route is chosen; this shall not apply if the costs rise owing to the fact that the delivery item is located in a place other than the place in which it is to be used in accordance with the terms.
- (3) If the items delivered show any material defects, we shall be obligated and entitled to remedy such defects or provide a substitute delivery within a reasonable period to be determined at our discretion. In the event of a failure, i.e. any impossibility, unreasonableness, refusal or inappropriate delay of the subsequent improvement or replacement, our contractual partner shall have the right to withdraw from the contract or reduce the purchase price appropriately.
- (4) If a defect is based on our fault, our contractual partner shall be entitled to claim damages if the requirements specified under No. 9 are fulfilled.
- (5) If components made by other manufacturers show any defects which we are unable to remove for licencing reasons or on factual grounds, we shall have the option of asserting our warranty claims towards the manufacturers and suppliers on our contractual partner's account or assigning such claims to our contractual partner. With respect to such defects, which must also fulfill the other requirements as laid down in these terms and conditions, warranty claims towards us shall only arise if the legal enforcement of the above-mentioned claims towards the manufacturer and supplier have proved to be futile or if such enforcement is pointless, e.g. due to insolvency. For the duration of the legal dispute the limitation of actions for the warranty claims in question shall be suspended.
- (6) The assumption of guarantees or of the procurement risk on our part must be agreed expressly in written form. Any statements contained in our catalogues, on our websites or in any other general information shall at no point in time constitute a guarantee or the assumption of a procurement risk.
- (7) Any warranty shall lapse if our contractual partner changes the delivery item or has the latter changed by a third party without our consent and if the removal of defects becomes impossible or is unreasonably complicated as a result of such a change. In any case our contractual partner shall bear the additional costs of the remedy of the defect incurred as a consequence of the change.
- (8) If any delivery of used items to our contractual partner, which may be agreed with the latter in individual cases, is implemented, any warranty for material defects shall be excluded.

8.Property Rights

- (1) In accordance with No. 7 we promise that the delivery item is free from any industrial property rights or third-party copyrights. Each contractual partner shall notify the respective other contractual partner if any claims owing to the infringement of such rights are asserted towards them.
- (2) In the event that the delivery item infringes an industrial property right or copyright of a third party, we shall have the option of altering or replacing the delivery item at our expense in such a manner that the rights of any third parties are no longer infringed, while the delivery item still continues to fulfill the functions which have been agreed in the contract, or vesting our contractual partner with the usufructuary right by conclusion of a licencing agreement. If we do not succeed in doing so within a reasonable period, our contractual partner shall have the right to withdraw from the contract or reduce the purchase price appropriately. Any possible claims for damages on our contractual partner's part shall be subject to the restrictions specified in No. 9 of these terms and conditions.
- (3) If any rights are infringed by products supplied by us which were made by other manufacturers, we shall have the option of asserting our claims towards the manufacturers and our own suppliers on our contractual partner's account or assigning such claims to our contractual partner. Pursuant to No. 7 of these terms and conditions warranty claims towards us shall, in such cases, only arise if the legal enforcement of the above-mentioned claims towards the manufacturers and suppliers has proved to be futile or if such enforcement is pointless, e.g. due to insolvency.

9.Liability for damages due to fault

- (1) In the event of intent or gross negligence on our part or on the part of our representatives or vicarious agents, we shall be liable in accordance with the statutory provisions; the same applies to culpable breach of material contractual obligations. Insofar as there is no intentional breach of contract, our liability for damages is limited to the foreseeable, typically occurring damage.
- (2) Liability for culpable injury to life, body or health as well as liability under the Product Liability Act shall remain unaffected.
- (3) Any claims for damages shall be limited in amount to the maximum compensation paid by our company liability insurance with Allianz Versicherungs-AG, insurance no. AS-9841291413, this being € 10,000,000.00 per insured event for personal injury, property damage and financial loss. This maximum limit does not apply to intentional breach of contract.
- (4) Unless expressly regulated otherwise above, our liability is excluded.

10. Reservation of Ownership

- (1) The reservation of ownership agreed hereinafter shall serve the purpose of securing any currently existing or future claims which have arisen or may arise from the supply relationship existing between the contracting parties including any balance claims resulting from mutual accounts which are restricted to this supply relationship.
- (2) Up until all our secured claims have been settled in full, the goods delivered by us shall remain our property (hereinafter referred to as 'reserved property'). In the event of a default of payment, our contractual partner shall be obliged to reconstitute the reserved property at its expense. The request for restitution of the reserved property shall not be accompanied by a withdrawal from the contract unless such withdrawal is declared expressly in writing.
- (3) Our reserved property shall be kept safe by our contractual partner with due care. In particular, the latter shall insure such property against burglary, theft, fire or water damage as well as any other risks which the safekeeping by our contractual partner may involve or the latter shall make sure that an insurance of such kind which already exists also covers the reserved property. Our contractual partner shall even now assign any claims towards its insurer which may arise from an event of damage covered by insurance and concerns our reserved property to us.
- (4) If any third parties should seize our reserved property, in particular by distraint, our contractual partner shall immediately point out to them our ownership and notify us accordingly in order to place us in a position to enforce our property rights. If the third party is not prepared to reimburse us for the court costs or out-of-court expenses incurred by us in relation to this, our contractual partner shall be liable for such reimbursement.
- (5) In the event that the reserved goods are resold, our contractual partner shall even now assign any claim(s) towards the acquirer resulting therefrom to us by way of security; in the case of co-ownership of the reserved goods this shall be effected proportionally to the relevant co-ownership share. The same shall apply to any other claims which may supersede the reserved goods or may otherwise arise with respect to the reserved goods such as insurance claims or claims arising from a tortious act in the event of loss or destruction. We authorize our contractual partner to collect any debts which have been assigned to us in its own behalf until this authorization is revoked. This authorization to collect debts may only be revoked by us in the event of realization.
- (6) If the reserved property is processed by our contractual partner, it is stipulated that such processing shall be effected in our behalf and on our account in our capacity as manufacturer and that we shall directly acquire ownership or - if such processing involves materials belonging to several owners or if the value of the processed object exceeds the value of the reserved property - co-ownership (or fractional ownership) of the newly created object in proportion of the value of the reserved property to the value of the newly created object. With respect to the case that no such acquisition of title should materialize on our part, our contractual partner shall even now assign its future ownership or - in the proportion specified above - its co-ownership of the newly created object to us for the sake of security. If the reserved property is combined with other objects to form a unified object or if it is inseparably mixed with such objects and if one of the other objects must be regarded as the main constituent, our contractual partner shall, insofar as it owns the main constituent, transfer to its buyer/customer co-ownership of the unified object only proportionally in the relation specified in sentence 1.
- (7) We shall release the reserved property as well as any objects or claims superseding the former at our contractual partner's request and discretion with the proviso that the value of such property, objects or claims exceeds the amount of the secured claims by more than 50%.

11. Software

- (1) Insofar as electronic data processing programs (hereinafter referred to as 'software') are included in our scope of supply, we shall grant our contractual partner the non-transferable and non-exclusive right to use the software, with this right being limited in accordance with the terms of the scope of supply.
- (2) The use shall comprise the full and partial input ('copying') of the software and data stock as well as the creation of further copies of this material in a machine-readable form insofar as this is necessary for the use as stipulated in the contract. Our contractual partner may combine the software entrusted to him with other electronic data processing programs. He shall, however, not be permitted to effect any changes to the software or reorganize the latter.
- (3) Any granting of sub-licenses shall be inadmissible. The references to proprietary rights and copyrights as well as any other legal reservations contained in the software shall be maintained without any changes being effected.

12. Final Provisions

- (1) Unless otherwise agreed in writing, any contracts concluded with us are governed by German substantive law (insofar as it is applicable) and the United Nations Convention on Contracts for the International Sale of Goods of 04/11/1980 (CISG).
- (2) Unless otherwise agreed in writing, the place of performance is 96215 Lichtenfels/Germany.
- (3) Any disputes arising in connection with this contract or with respect to its validity shall be arbitrated without any possibility of resort to the general courts of law in accordance with the Arbitration and Conciliation Rules of the International Chamber of Commerce (ICC, Paris) by means of a final decision to be pronounced by one or more arbitrators appointed in compliance with the aforementioned rules. The place of the arbitration proceedings is Frankfurt am Main. The language used for the arbitration proceedings is English. The arbitration proceedings are subject to the German Law of Civil Procedure insofar as the arbitration rules do not contain anything to the contrary.
- (4) Should the contract or these terms and conditions contain any gaps in the provisions, those legally effective provisions shall be deemed to have been agreed to fill such gaps which the contracting parties would have agreed in accordance with the economic objectives of the contract and the purpose of these terms and conditions if they had been aware of the gap in the provisions.
- (5) Should one or several provisions of these terms and conditions and/or the contract as concluded between one enterprise of the group be ineffective, the effectiveness of any other provisions/contractual agreements shall remain unaffected by this. With respect to such a case the parties undertake to stipulate a provision/agreement which the contractual partners would have agreed in accordance with the economic objectives of the contract and the purpose of these terms and conditions.