

**Sect. 1 General Provisions**

- (1) All our deliveries, services, and offers are effected exclusively on the basis of these terms, even if not expressly mentioned during negotiations. We do not recognise contrary terms even if we do not expressly object to them or when referring to letters from the contractual partner that refer to the partner's terms. Our T&C only apply for business transactions with companies as defined under Section 14 *BGB* [German Civil Code], corporate bodies under public law, and special funds under public law, including all future business relationships even if there is no express agreement renewal. Our T&C are considered accepted at the latest upon receipt of goods.
- (2) Terms of the purchaser that are contrary to or deviating from our terms apply only if we have expressly agreed to their use in writing.

**Sect. 2 Offer; Conclusion of Contract; Documents**

- (1) Our sales representatives are not authorised to make verbal subsidiary agreements or representations exceeding the scope of the written contract. All provisions of this contract are documented in writing in the contractual documents. Verbal agreements have no validity.
- (2) Delivery dates are approximate and non-binding unless we have agreed to their full and binding nature. Information on the delivery item (e.g. specifications, tolerances, measurements, weights, etc.) and its representation are merely descriptions and characterisations and only binding if we expressly agree to their inclusion in the contract. We reserve the right to customary technical and design modifications to the delivery items provided they have no unreasonable impact on the customer and do not affect the usability of the purchased item.
- (3) Our offers remain non-binding until the contract is concluded.
- (4) We reserve the right of ownership and copyright to structural drawings, samples, cost estimates, or similar corporate objects of a physical or non-physical nature. Offers are always to be treated strictly confidential. Making them accessible to third parties requires our consent. In the event of a violation of these obligations, the purchaser is liable to us to the fullest extent permitted by law. Using our name or similar elements for promotional purposes requires our prior consent.
- (5) All information required for the purposes of fulfilling the order must be provided in the order. This applies for all deliveries, services, works or any other performances rendered by us. In particular, this includes, but is not limited to, information pertaining to item names, quantities, dimensions, materials, material compositions, pre-treatments, processing specifications, regulations for any treatments, storage, standards and all other technical parameters and physical characteristics.

**Sect. 3 Pricing**

- (1) Our prices are ex works, exclusive of lading and exclusive of packaging, which is invoiced additionally. Deviations from the above need to be made in writing and require our express written consent. Unloading and storing is the responsibility of the purchaser. Our prices exclude value-added tax; it will be added on the day of invoicing. Unless agreed otherwise, the purchaser bears the costs for any agreed insurance for transport or similar. In case of partial deliveries we can invoice each delivery separately. If HECHT is subject to customs or duties or taxes of any kind in the country of fulfilment, which are payable as per applicable law, these costs are also excluded and/or payable by the purchaser.
- (2) If the price basis changes (e.g., price increase for elements, materials, wages, transport, or storage) on a given delivery day that is four months after the conclusion of contract, we reserve the right to adjust our prices accordingly, after informing the purchaser. We are only entitled to this price increase within two months after the named price increases have occurred. The new price needs to reflect the individual cost elements and their increase in a reasonable measure. If some cost elements have increased in price while others have decreased in price, the new price needs to consider this, too.  
Furthermore, we shall be entitled to amend the agreed price as we deem appropriate where, prior to or upon completion of the order, changes arise owing to errors in the documents originally prepared and provided by the purchaser or due to changes requested by the purchaser.
- (3) If no prices are agreed at the conclusion of contract, our prices that are valid on the day of delivery will apply.

**Sect. 4 Payment Terms**

- (1) Insofar as the order confirmation (or alternatively, the invoice) does not specify anything to the contrary, prices are due for payment (with no discount) within eight (8) days of the invoice date.
- (2) If the purchaser fails to pay in due time, we are entitled to charge interest on arrears at a rate of nine (9) percentage points above the base interest rate. We are entitled to verify and invoice higher interest damage at any times. In the event of delayed payment we are also entitled to cancel any agreed discounts, discounts on early payment, or other savings. We are entitled to provide further deliveries only against advance payment.
- (3) Non-compliance with payment terms, delayed payments, or circumstances that may lower the purchaser's creditworthiness will result in immediate maturity of all our receivables.
- (4) The purchaser has offset rights only if their counterclaims are *res judicata*, ready for a decision, recognised by us, or undisputed.
- (5) The purchaser is entitled to exercise their right of retention insofar as their counterclaim is based on the same contractual relationship or the counterclaim is recognised, *res judicata*, or ready for a decision.
- (6) We are not obligated to accept bills of exchange or cheques. Resulting credit entries always apply subject to their redemption (on account of payment, not on account of contractual compliance); credit entries are made on the day we can avail ourselves of their equivalent value. We credit bills of exchange minus the minimum lending rate charged to us for passing it on, the stamp duty, bank fees, and collection charges, if applicable.



- (7) In the event of delays we reserve the right to further contractual or statutory claims.

#### **Sect. 5 Delivery Modalities and Delivery Events**

- (1) The delivery period starts when the order confirmation has been sent off but not before (i) the purchaser has provided the documents, approvals, and clearances to be furnished; (ii) any agreed down payments have been received; and (iii) all technical issues have been resolved.
- (2) The delivery period is deemed to be fulfilled if the delivery item has left our factory before the delivery period has elapsed or the customer has been informed that the item is ready for shipping.
- (3) In the event of unforeseen events outside of our control, which we have been unable to prevent despite exercising a level of diligence that is reasonable for events of that kind—regardless of whether the events occur at our premises or those of one of our subcontractors—such as force majeure (e.g., wars, fire, or natural disasters), delays in the delivery of essential raw materials, etc.—we are entitled to extend the delivery period by the duration of that event. In the event of industrial action or lockouts at our premises or those of our subcontractors we are granted the same rights. We will immediately inform the purchaser of any such circumstances and immediately reimburse them for payments already made. If the event results in a delay of more than one month we are also entitled to withdraw from the delivery contract in part or in full.
- (4) We reserve the right of correct and timely deliveries to ourselves. We will inform the purchaser of any delays. Insofar as our suppliers do not supply us correctly or on time without our responsibility, the service time is delayed by a certain period. In that case we are even entitled to withdraw from the contract due to undelivered items insofar as the incorrect or belated deliveries to ourselves delay the service time by more than one (1) month. Insofar as permitted by competition law, we will assign to the purchaser our claims against the supplier due to a non-contractual delivery.
- (5) In the event of a delayed delivery, the purchaser is entitled to withdraw from the contract if a reasonable deadline passes without result; in the event that we cannot deliver our service, the purchaser is entitled to this right without setting a time period.  
Claims for damages (including any subsequent damages) are excluded, notwithstanding Para. 6 and Sect. 9, which do not intend a reversal of the burden of proof; the same applies to reimbursement of expenses.
- (6) If short selling has been agreed, we are liable according to statutory stipulations; the same applies if the purchaser is entitled to claim that their interest in contract fulfilment has ceased to apply due to the delay we have caused.
- (7) If the purchaser requests a delayed shipment, we will charge them for the storage costs incurred, starting one week after indication of readiness for dispatch.

#### **Sect. 6 Transfer of Risk, Acceptance of Goods, Partial Deliveries**

- (1) The risk of a debt to be discharged at the domicile of the debtor transfers to the purchaser when the goods are selected and provisioned as agreed. The same applies to an obligation to be performed at the debtor's place of business starting from the date of transfer to the transporting person. The risk of a debt to be discharged at creditor's domicile transfers when the goods leave our factory's premises. The same applies in the event of a delay of the creditor. The risk of contracts for work transfers when the good are accepted and according to statutory stipulations.
- (2) The purchaser is to accept all delivered items, even if they display insignificant defects, without prejudice to the rights in Sect. 8, 9.  
Partial deliveries are permissible if they are reasonably acceptable to the purchaser.

#### **Sect. 7 Retention of Title**

- (1) The goods remain our property until they have been paid. When trading with companies, we retain the title to all delivered goods until the purchaser has paid all current and future receivables arising from the business relationship. The retention of title also applies to replacement parts such as motors, control units, etc., even if they are installed as this turns them into non-essential components in terms of Sect. 93 German Civil Code.  
Our retention of title in a cheque / bill of exchange process remains valid even after the cheque has been paid until our release from the liability under bills of exchange. If there is an open account relationship (business relationship) we retain the title until we have received all payments from the existing open account; this retention refers to the recognised balance; in these cases the regulations from Sect. 7 apply accordingly.
- (2) Should the purchaser act in breach of contract, particularly by failing to pay in due time, we are entitled to take back the goods if the deadline passes without result. Taking back the goods can only be considered as withdrawing from the contract if a deadline we set for providing the service has passed without result and the withdrawal has been expressly stated. The purchaser bears the costs (in particular transport costs) incurred to us by taking back the goods. We are also entitled to prohibit the purchaser from any resale or processing, merging or mixing of the goods delivered under retention of title and to revoke the direct debit authorisation (Sect. 7 V). The purchaser can request delivery of goods taken back without an express withdrawal of contract not until purchase price and all costs have been paid in full.
- (3) The purchaser is obligated to treat the goods with care (incl. required servicing and maintenance tasks) and insure the goods against loss and damage at its own expense.
- (4) The purchaser is not permitted to pledge the delivery item and receivables in its stead, or assign them as a security, or assign the rights to them. If the goods are seized or third parties intervene in other ways, the purchaser must inform us in writing immediately so that we may institute legal proceedings in accordance with Sect. 771 of the German Code of Civil Procedure. The purchaser is to bear any remaining costs we are charged with for legal proceedings despite of winning a legal dispute according to Sect. 771 of the German Code of Civil Procedure.



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- (5) The purchaser is entitled to resell or process or mix the purchased item in the regular course of business; however, they already assign to us all the receivables and subsidiary rights from reselling, processing, mixing or for other legal reasons (in particular from insurances or prohibited acts) in the amount of the final invoice amount agreed with us (incl. value-added tax). If we co-own the delivered goods due to our retention of title, receivables are assigned on a pro-rata basis. If the delivered goods are sold together with third-party goods not owned by the purchaser, arising receivables are assigned to us on a pro-rata basis of the final invoice amount of our goods and the final invoice amount of third-party goods. By adding the assigned receivables to an open invoice, the purchaser already assigns to us now a respective portion of the balance (including the final balance) from the open account; if interim balances are calculated and if it is agreed that they are carried forward, receivables from the interim balance, to which we are eligible as per the regulation above, are to be treated as assigned with regard to the next balance. The purchaser is authorised to collect receivables even following such transfer, without affecting our right to collect the receivables ourselves. However, we undertake not to collect receivables while the purchaser (i) meets their payment obligations from the collected profits; (ii) does not fail to pay in due time; and (iii) has not applied to file for insolvency proceedings; or (iv) has ceased to pay. In that case, however, we may demand that the purchaser states the assigned receivables and their debtors, provides all required information for collection, hands over the associated documents, and informs the debtors (third parties) about the assignment. This also applies if the purchaser resells, processes, or mixes the purchased item contrary to contract.
- (6) The retention of title also includes the full value of the produce created by processing or altering our goods, with these processes occurring for us so that we are regarded as their manufacturer. If processing or alteration occur together with other goods not owned by us, we acquire co-ownership on a pro-rata basis of the objective values of these goods; in that case, we already agree that the purchaser carefully safekeeps the goods for us. If our reservation products are joined with other mobile items into a coherent unit or mixed inseparably, and if the other item is to be considered the main item, the purchaser assigns to us a pro-rata co-ownership, provided that they own the main item; the purchaser safekeeps the created (co-)ownership for us. The same applies to items created in such a way as applies to the items delivered under retention of title.
- (7) The purchaser also assigns to us the receivables for securing our receivables against the purchaser when they arise against a third party from merging the delivered items with a piece of property. This assignment has priority over any other claims
- (8) The securities we are entitled to are not assessed insofar as their estimated value exceeds the nominal value of the receivables to be secured by 50%; it is our decision, which securities were freed.
- (9) Insofar as the validity of the retention of title is subject to special prerequisites or forms, e.g., notarisation, in the country of destination, the purchaser is responsible for meeting these requirements.

### Sect. 8 Material Defects and Defects of Title

We are liable as follows for purchased items if the purchaser is a merchant, but only if the duties of inspection and complaint as per Section 377 HGB [German Commercial Code] have been met properly (notices of defect need to be made in text form as a minimum requirement):

- (1) It shall be the burden of the purchaser to prove any defects of the purchased item. The purchased item shall be considered to be free from material defects where the contractual item's subjective and objective requirements are met at the point risk is transferred. The item shall be considered to meet its subjective requirements where it has the agreed properties, is suitable for the required intended use as defined in the relevant contract and is provided with the agreed accessories and instructions. The item shall be considered to meet its objective requirements where it is suitable for normal use and is provided in a quality that is customary for items of the same type. Where the item must be installed, the item shall be considered to meet installation requirements where it has been properly installed.

Insofar as the purchased items display a defect, we are entitled to resolve the defect or deliver a defect-free item at our discretion (supplementary performance).

This requires the defect to be non-insignificant.

If one or both types of supplementary performance are impossible or unreasonable, we are entitled to refuse them.

We may refuse a supplementary performance as long as the purchaser fails to fulfil their payment duties to an extent corresponding to the defect-free portion of our service.

In case of a supplementary performance we bear the expenditure up to the amount of the purchase price, provided this expenditure is not increased by moving the purchased item to a place other than its place of performance.

We bear the expenditure, in particular transport, road, labour, and material costs required for supplementary performance; we do not bear the expenditure if the removal of the item to a place other than its place of fulfilment incurs additional costs, except where such removal is part of its intended use. This also applies for any compensation entitlement on the part of the purchaser in accordance with Section 445a BGB, provided that the last contract in the supply chain is not for the purchase of consumer goods.

The regulations under Section 439 III BGB shall not apply where the product delivered by us is permanently attached to the purchaser's product. This applies in particular where our product is permanently attached to, mixed or processed with product ingredients of the purchaser. This includes in particular cases in which our product is welded, joined or processed at a high installation depth so as to make accessing our product significantly more difficult.

If the purchaser's product can be optimised while installed by way of repairs or replacement of components within our product (or similar alternative replacement measures), the regulations under Section 439 III BGB shall not apply.



- (2) If the supplementary performance named in Para. 1 is impossible or has failed, the purchaser has the right to choose whether to lower the purchase price accordingly or to withdraw from the contract according to statutory stipulations; this applies in particular in case of culpable delays or a refusal of this supplementary performance or if it fails a second time.  
Further claims by the purchaser, irrespective of their legal basis, are excluded or restricted according to Sect. 9.
- (3) We do not provide warranties for damage arising from the following causes: Unsuitable or improper use; wrong installation by the purchaser or third parties; natural or common wear and tear; incorrect or negligent treatment; excessive strain; unsuitable operating resources; poor constructional work; unsuitable geotechnical basis; chemical, electro-chemical, or electrical influences (unless we are responsible for them); alterations or repair tasks that are improper and performed by the purchaser or third parties without our prior consent.
- (4) Claims for defects lapse one (1) year after delivery of the purchased item provided they are claims with limited liability according to Section 8 or 10. In cases outlined under Section 438(1)(2) *BGB* and Section 634a(1)(2) *BGB*, the aforementioned statute of limitations shall not apply in the event of intent, fraud, assumption of any quality guarantee, personal injury, claims under product liability law or in the event of a grossly negligent breach of obligation or violation of significant contractual obligations.  
Claims for mitigation and exercising a right of withdrawal are excluded if the claim for supplementary performance has lapsed.  
In case of Sent. 3 the purchaser may, however, refuse to pay the purchase price if they are entitled to due to withdrawal or mitigation; if withdrawal is excluded, followed by a refusal to pay, we are entitled to withdraw from the contract.  
A reversal of the burden of proof is not intended.
- (5) Any assurances and warranties require a separate agreement.
- (6) The purchaser is responsible for the extensive specification and agreement on the quality of the purchased item. In particular, it is the duty of the purchaser to specify the intended use of the delivered products for the application. We cannot provide any warranty for the suitability for use where the purchaser fails to provide such specification.

#### **Sect. 9 Service Contract and Supply of Goods to be Manufactured or Produced**

- (1) We warrant defects from contractual services as per Sect. 8 I–V and Sect. 9.  
The purchaser is entitled to the statutory right of completing the system by themselves as stipulated by Sect. 637 of the German Civil Code; this claim is excluded if we can also refuse supplementary performance.
- (2) Claims for supplementary performance, claims for damages and replacement use lapse one year after delivery. In cases outlined under Section 634a(1)(2) *BGB*, this shall not apply in the event of intent, fraud, assumption of any quality guarantee, personal injury, claims under product liability law or in the event of a grossly negligent breach of obligation or violation of significant contractual obligations.  
Claims for completing the system by themselves, mitigation and exercising a right of withdrawal are excluded if the claim for supplementary performance has lapsed and refer to this fact.  
In case of Sent. 3 the purchaser may, however, refuse to pay the purchase price if they are entitled to due to the withdrawal or mitigation; if withdrawal is excluded, followed by a refusal to pay, we are entitled to withdraw from the contract.
- (3) Sect. 8 applies to the supply of mobile goods to be manufactured or produced.
- (4) Cost estimates require payment.

#### **Sect. 10 Withdrawal of the Purchasers; Other Liabilities on Our Part**

- (1) The purchaser's statutory right of withdrawal is to be neither excluded nor limited, with the exception of Sect. 8. In the same way, statutory or contractual rights or claims we are entitled to, are to be neither excluded nor limited.
- (2) We assume unlimited liability only for intent and gross negligence (including that of our legal representatives or vicarious agents) and for injuries to life, limb, and health. We also assume unlimited liability for issuing warranties and making representations if a defect covered by them gives rise to liability. Our liability for absolute offences (in particular according to the Product Liability Act) is also unlimited. Any liability according to the principles of the recourse against the contractor according to Section 478 *BGB* and Section 445 a ff. *BGB* remains unaffected.
- (3) For other culpable violations of substantial contractual duties (cardinal duties, see Para. (8) Sent. 2), our remaining liability is limited to the foreseeable damage typically occurring under this type of contract.
- (4) In addition, liability—regardless of the legal reason (in particular claims for violating principal or secondary contractual obligations, or tortious liability), is excluded.
- (5) The same (exclusions, limitation, exceptions thereof) applies to claims under culpa in contrahendo.
- (6) In case of reimbursement of expenses (with the exception of that according to Sect. 439 II, 635 II of the German Civil Code), Sect. 8 applies accordingly.
- (7) An exclusion or a limitation of our liability also takes effect on our legal representatives and vicarious agents.
- (8) A reversal of the burden of proof is not intended. Cardinal duties are substantial contractual obligations; that is, obligations shaping a contract and which the contractual partners may rely on; that is, the substantial rights and duties that create the pre-requisites for contract fulfilment and that are indispensable for achieving the contractual purpose.



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### Sect. 11 Place of Performance; Place of Jurisdiction; Applicable Law; Contractual Language; Allocation of Burden of Proof

- (1) Place of performance is the place of dispatch (factory or warehouse location).
- (2) Place of jurisdiction is our place of business, provided that the purchaser is also a merchant, a legal person under public law, or a special fund under public law (Germany). The same applies if the purchaser has no general place of jurisdiction in Germany, moves their place of business abroad after contract conclusion, or if their place of business is unknown at the time of filing a complaint. We are entitled to sue the purchaser at other permissible places of jurisdiction.
- (3) All claims and rights from this contract are solely governed by the law of the Federal Republic of Germany (German Civil Code, German Commercial Code). We expressly exclude the UN Convention on Contracts for the International Sale of Goods (CISG) and the conflict-related standards of the Introductory Law to the German Civil Code (EGBGB). The contractual language is German.
- (4) No clause agreed in the entire terms is deemed to modify the statutory or judicial allocation of burden of proof.

### Sect. 12 Other Provisions

- (1) Any changes to the contract require our consent to be effective and need to be made in writing.
- (2) Should individual provisions of these terms become ineffective or invalid, in full or in part, this will not affect the validity of the remaining provisions. Where these provisions have not been made a component of the contract or where they are ineffective, the content of the contract shall be based on the statutory provisions.
- (3) We will use all data of the purchaser's exclusively for the purpose of doing business and in compliance with the applicable data protection provisions. On request, the purchaser also has a right to information about their personal data we have collected, processed, or used.
- (4) All terminologies and regulations used are to be interpreted as gender-neutral and anti-discriminatory in terms of the German General Law on Equal Treatment (AGG).

## II. Supplementary provisions

### I. Production equipment

1. Where special production equipment (e.g. samples, tools and templates) is required to fulfil the order, we shall obtain or maintain ownership of any production equipment manufactured by us or a third party commissioned by ourselves; this shall still apply even where the purchaser pays a share of the costs for the production equipment.
2. The production equipment shall only be used for purchaser orders as long as the purchaser fulfils its payment and acceptance obligations. We shall only be obligated to service and replace this tool free of charge where this is required to fulfil a production output promised to the purchaser.
3. Unless otherwise agreed, manufacturing costs for the production equipment shall be invoiced separately from the goods to be delivered. This also applies for tools that must be replaced due to wear. Pro rata tool costs shall be listed separately in the offer and order confirmation; these are payable in full upon completion of the contract. It should also be specified whether and how any potential paid portions of tool costs will be amortised.
4. Where it has been agreed that the purchaser will become owner of the tools, ownership of the tools will be transferred to the purchaser upon payment of the purchase price for the tools. Transfer of the tools to the purchaser is superseded by our retention obligation. Regardless of the purchaser's legal claim for surrender and the service life of the tool, we shall be entitled to sole ownership of the tools up until acceptance of a minimum quantity to be agreed by the purchaser or until expiration of a defined period of time. We shall earmark the tools as third-party property and insure them upon request by and at the expense of the purchaser.
5. In the event the purchaser suspends collaboration while the production equipment is being manufactured, or where it terminates collaboration, all manufacturing costs incurred up until that point shall be borne by the purchaser except where we are responsible for the termination.
6. Where the purchaser has its own tools in accordance with Para. 4., or where the purchaser provides tools on a loan basis, our liability with regard to storage and maintenance shall be limited to the same level of care we exercise in our own internal affairs. Costs for maintenance and insurance shall be borne by the purchaser. Our obligations shall expire where, following a request made to the purchaser, the purchaser fails to collect the tools within 14 days of the request.
7. In the event the purchaser fails to fully meet its contractual obligations, we shall reserve the right to retain the tools. Our statutory rights of lien shall remain unaffected.

### II. Material provisions

Where the purchaser surrenders material or other items, hereinafter referred to as "Goods", the following provisions shall apply for any handling/processing activities:

1. Any Goods surrendered to us shall only be inspected for external defects and damage upon delivery. We are not obligated to perform any further inspections. Any defects or damage detected shall be reported to the purchaser within ten (10) working days of discovery of the defect.
2. Goods surrendered to us must be made from a material of normal or otherwise agreed quality and which can be easily processed. Otherwise, we will invoice the purchaser for any necessary additional expense. In the event of failure to comply with the required quality under 1., our agreed delivery and performance periods shall be extended by the period of subsequent delay caused accordingly.



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3. Where the Goods are proven to be unusable as a result of material defects, we shall be entitled to compensation for any processing costs incurred.
4. We shall not be liable for damages as a result of inaccurate labelling or markings on materials delivered by the purchaser.
5. The purchaser shall be obligated to compensate us for all costs and damages, including lost profits, incurred by us as a result of any loaned materials that are not suitable for processing.
6. No compensation shall be provided for any scrap in an amount that is customary for the industry.

### **III. Material transfer**

Where the purchaser provides material for test purposes, proper disposal of said material shall be completed by us at the expense of the purchaser. The purchaser must also bear the costs for any required cleaning of the test systems and accessories or disposal of accessories.

