

## **General Purchasing Terms and Conditions for HUBTEX Maschinenbau GmbH & Co. KG**

### **Section 1 General Provisions – Scope of Application**

(1) These General Purchasing Terms and Conditions (“Terms and Conditions”) shall apply to all business relationships with our business partners and suppliers (“Vendors”). The Terms and Conditions shall apply only if the Vendor is an entrepreneur (section 14 BGB, German Civil Code), a legal entity under public law or a special fund under public law.

(2) Unless otherwise agreed, the version of the Terms and Conditions valid at the time the Vendor makes an order, or the written version provided to it as a framework agreement, shall also apply to similar contracts in the future without the need for us to refer to them again in each separate instance.

(3) These Terms and Conditions of purchase will apply exclusively for our orders; any of the supplier’s Terms and Conditions that conflict with or differ from our Purchasing Terms and Conditions will not be recognized, unless we have expressly accepted in writing that they are valid. Our Purchasing Terms and Conditions will also apply if we accept deliveries from the supplier without reservation, in the knowledge that the supplier has terms and conditions that conflict with or differ from our Purchasing Terms and Conditions.

(4) In individual instances, individual agreements with the Vendor (including collateral agreements, amendments and revisions) will have priority over these Terms and Conditions. With regard to the content of such agreements, authority shall lie with a written contract or written confirmation provided by us, unless there exists proof to the contrary.

(5) Any legal statements and notifications from the Vendor in relation to the contract (regarding setting a delivery date, issuing a reminder, or withdrawing from the contract, for example) shall be made in writing (by letter, email, fax, etc.). This shall not affect any formal statutory provisions or the requirement to provide further evidence, especially where the identity of the person making the statement or notification is in doubt.

(6) References to the validity of statutory provisions are for clarification purposes only. Unless they have been amended or expressly excluded from these Terms and Conditions, statutory provisions shall therefore apply, even without such clarification.

### **Section 2 Offers – Offer Documents**

(1) Our order will not be deemed to be binding until submitted or confirmed in writing. Before accepting an order, the supplier must notify us of any obvious errors (such as typos and calculation errors) and if the order is incomplete, including if order documents are missing, so that we can correct or complete the order; the contract will otherwise not be deemed to have been concluded.

(2) The supplier shall be required to accept our order within two weeks by signing and returning the duplicate copy of the order. Confirmation of an order received after this time will be deemed to constitute a new offer.

(3) Visits by the supplier and the preparation of offers or ideas will not be paid for without specific agreement.

(4) Quotations will be binding unless otherwise specifically agreed.

(5) We reserve ownership rights and copyright to illustrations, drawings, plans, calculations, instructions, product descriptions and other documents; they may not be made accessible to third parties without our express written approval. They must be used solely for production based on our order; after completion of the order, they must be returned to us without us having to ask for them. They must be kept confidential from third parties if the provision in section 15 also applies.

(5) We may request changes to deliveries and services even after the contract has been concluded, if technical or design modifications to the goods we are manufacturing mean we need to do so and if the changes are both acceptable and feasible for the supplier. The supplier shall undertake to notify us in writing within 14 days of receiving the request to change the order of the impact the request will have on the contract, particularly with regard to costs and the delivery date. The changes to the contract will become an integral part of the contract, if we agree to them in writing within 14 days; otherwise the changes will be deemed to have been rejected and the request to change the order will be deemed to be null and void. The right to terminate the contract in accordance with section 3 (1) shall remain reserved.

### **Section 3 Termination**

(1) Even if the contract is not a contract for work, we shall have the right to cancel it either wholly or in part. If the contract is terminated, we will be required to pay for all deliveries/services provided up to that point. The supplier shall be reimbursed reasonable costs for deliveries and services that have not yet been provided (taking into account any materials procured and work carried out), including a profit calculated pro rata. The supplier shall have no other claims as a result of termination of the contract.

(2) We will also be entitled to terminate the contract if insolvency proceedings are filed against the supplier's assets or if the supplier ceases making payments. The same shall apply if the supplier does not fulfill its suppliers' claims.

### **Section 4 Prices – Payment Terms – Offsetting – Default in Payment**

(1) The price stated in an order will be binding. Statutory sales tax will be included in the price, if it is not indicated separately. The supplier's price adjustment clauses will not be recognized. Price increases will require a separate agreement.

(2) Unless otherwise agreed in writing, the price will include delivery "free domicile", including all standard and additional services provided by the supplier (such as installation and assembly) and all associated costs (such as costs for correct packaging, transport costs, including possible transport and liability insurance costs and customs payments).

(3) The requirement for us to return packaging will require a specific agreement.

(4) We will only be able to process invoices if they state the order number provided in our order; the supplier shall be responsible for all of the consequences of not complying with this requirement, unless it can prove it is not responsible.

(5) The agreed price will be due for payment within 30 calendar days after the delivery and service have been completed (including any acceptance process agreed) and a correctly drawn-up invoice has been received (section 14 UStG, the German Sales Tax Act). If we make payment within 14 calendar days, the supplier will grant us a 3% discount on the net amount of the invoice. Payment of bank transfers will have been made on time if our bank receives our transfer instruction before the end of the payment period; we will not be responsible for delays caused by the banks involved in the payment process.

(6) We will not owe any interest for late payment. Statutory provisions will apply in the event of default in payment.

(7) Payment will not constitute acknowledgment that the contract has been fulfilled, and particularly not acknowledgment that there are no defects in the delivery or service provided.

(8) We will be entitled to offsetting and retention rights to the extent permitted by law.

### **Section 5 Delivery Period - Delays in Delivery**

(1) The delivery period specified in the order will be binding.

(2) The supplier shall be required to notify us immediately in writing if circumstances occur or if it becomes aware of circumstances that mean that the expected delivery time cannot be met.

(3) In the event there is a delay in delivery, we will be entitled to deduct a contractual penalty of 0.5% from the value of the delivery for each full week of delay, up to a maximum of 5%. We will be entitled to claim a contractual penalty in addition to fulfillment of delivery and, as a minimum amount, the compensation owed by the supplier in accordance with statutory provisions. Further claims and rights shall remain reserved, including the right to make further claims for compensation. We will particularly be entitled to withdraw from the contract or claim damages in lieu of the service if a reasonable time period elapses without the service being provided. A contractual penalty that has been paid will be credited against any (further) compensation claims. If we accept the delayed service, we will only be able to request the contractual penalty if we reserve for ourselves the right to make a claim when we accept the service or claim the contractual penalty no later than with final payment. If we request either a contractual penalty or compensation, the supplier will have the right to provide us with evidence that it is not responsible for breaching its duties under the contract.

(4) The supplier may only object to the absence of documents it requires us to provide if it has requested them in writing and has not received them within a reasonable period of time.

(5) We reserve the right to return goods that have been delivered ahead of time, at the supplier's expense. If an early delivery is not returned, the delivery item shall be stored at the supplier's expense and the supplier's risk until the agreed delivery date.

#### **Section 6 Services - Delivery - Transfer of Risk – Default in Acceptance - Documentation**

(1) The supplier shall not be entitled to have the service owed to us carried out by third parties (such as subcontractors), without our prior written approval. The supplier shall bear the procurement risk for its services, unless otherwise agreed in individual instances (restrictions to stocks, for example).

(2) Unless otherwise agreed, delivery will take place "free domicile" at the place specified in the order. If the destination is not specified, and nothing else has been agreed, delivery must be made ("free domicile") to our registered office in Fulda. The destination will also be the place of performance for the delivery and any subsequent performance (debt to be delivered to the creditor).

(3) The risk of accidental loss and accidental deterioration of the goods will pass to us no later than when they are transferred to us. The deciding factor for the transfer of risk shall be agreement by us to accept a delivery.

Statutory provisions in contracts for work and services shall apply accordingly when we agree to accept a delivery. The transfer or acceptance of a delivery shall be carried out in the same way if we are in default in accepting the goods.

(4) Statutory provisions will apply in the event of default in acceptance. The supplier must, however, expressly offer us its services even if a specific or specifiable period has been agreed for an action or for our collaboration with it (providing materials, for example). If we are in default of acceptance, the supplier may request compensation for any additional expenses incurred, in accordance with statutory provisions (section 304 BGB). If the contract involves production of a non-fungible item by the supplier (a unique product), the supplier shall only be entitled to more rights if we have undertaken to collaborate and are responsible for the collaboration failing.

(5) The delivery items must be packed correctly and insured by the supplier at the supplier's expense. Unless otherwise agreed, the supplier must take back the transport packaging free of charge when requested to do so, in accordance with section 4 of the German Packaging Regulation.

(6) If the supplier uses standardized, exchangeable, reusable (pool) pallets (such as flat Euro pallets) for delivery, the rules of the "Bonn Pallet Exchange" shall apply as agreed, unless expressly agreed otherwise.

(7) The supplier shall be required to indicate our precise order number on all shipping documents and delivery notes; if it fails to do so, we will not be responsible for delays in processing.

**Section 7 Agreement regarding Quality and Characteristics**

(1) The parties have agreed that deliveries will conform to the technical data specified, that they will be manufactured from the materials specified or stated in the documentation, and that they will fulfill the function for which they have been specified. If no materials have been agreed, contractual deliveries and services will be made using the most suitable materials. Deliveries and services should also comply with applicable statutory and official regulations, accident prevention regulations, recognized quality regulations, and the most recent state of the art.

(2) The supplier will check compliance with the above-mentioned requirements before making a delivery, using a suitable, state-of-the-art quality inspection and must provide evidence to us that it has done so, if requested.

(3) The supplier must carefully check the documents sent to it to enable it to implement the contract (construction documents, etc.). If there are indications that the agreed quality or characteristics of the delivery item may not be delivered, either wholly or in part, or that the objective pursued by the supplier cannot be achieved, either wholly or in part, the supplier must provide us with detailed written information about these concerns before carrying out the work.

(4) If we consider it necessary, the supplier will conclude a quality assurance agreement with us.

**§ 8 REACH - CLP - RoHS**

(1) The supplier will also be responsible for ensuring that the goods comply with the provisions of the current version of Regulation (EC) No. 1907/2006 (the "REACH Regulation") concerning the registration, evaluation, authorization and restriction of chemicals. The supplier will also be particularly responsible for ensuring that the substances contained in the goods have been pre-registered, or registered, if required by the provisions of the REACH Regulation. In conformity with the provisions of the REACH Regulation, the supplier will provide us with safety data sheets and further information required, without having to be requested to do so. Restrictions and/or prohibitions on substances or use of substances, and the contents of substances on the candidate list (SVHC) must particularly be taken into account and communicated to us.

(2) Chemical substances must be classified, labeled and packaged in accordance with Regulation (EC) No. 1272/2008 (the "CLP Regulation").

(3) The supplier shall also be responsible for ensuring that the goods or parts that it is delivering are fully compliant with the requirements of the current version of Directive 2011/65/EU ("RoHS"), and with national provisions adopted for implementation of this Directive within the European Union, and are suitable for RoHS-compliant manufacturing processes.

**Section 9 Compliance with Statutory Provisions – Exemption from Liability**

(1) The supplier shall be responsible for ensuring that the goods or parts that it is delivering comply with all applicable laws, directives, ordinances and other public law regulations and provisions issued by authorities and professional associations.

(2) The supplier shall expressly exempt us from any external liability and responsibility, irrespective of the legal grounds, in the event of breaches of one of the provisions in sections 8 and 9.1 that are identified and for which it is responsible, and, in the event of an infringement, shall bear the costs of the loss and damage we suffer as a consequence.

**Section 10 Inspecting for Defects – Liability for Defects - Limitation Period**

(1) Statutory provisions shall apply for our rights with regard to material and legal defects in the goods (including incorrect and incomplete deliveries, incorrect installation or inadequate installation and operating instructions and manuals), and any other breaches of duty by the supplier, unless otherwise stated below.

(2) According to the statutory provisions, the supplier is particularly liable for ensuring that the goods are of the agreed quality when risk is transferred to us. In any event, any product descriptions that are the subject of the contract in question or are included in the contract in the same way as these Terms and Conditions, particularly if they have been named or referenced in our order, shall be deemed to be an agreement on the condition of the goods. This will apply whether the product description comes from us, the supplier or the manufacturer.

(3) Unlike section 442 (1) (2) BGB, we will be fully entitled to claims for defects, even if the defect was not known to us when the contract was concluded as a result of gross negligence.

(4) Statutory provisions (sections 377 and 381 HGB, the German Commercial Code) shall apply to the commercial requirement to inspect for and report defects, with the following proviso: The requirement for us to inspect the goods will be limited to defects that come to light during our visual inspection of incoming goods, including delivery documents (for example damage during transportation, incorrect or incomplete deliveries) or that can be identified by sampling during our quality control process. If we have agreed to accept an order, we will not be required to inspect the goods. It will also depend on how feasible it is to conduct an inspection, taking into account the specific circumstances within the ordinary course of business operations. Our requirement to give notice of defects that are discovered at a later stage will not be affected.

(5) The supplier will also bear the costs incurred for testing and for providing supplementary performance if it transpires that there were no defects. Our liability for damages where we request the removal of defects without good grounds will not be affected; however, we will only be liable if we realized that there were no defects or did not realize that there were no defects as a result of gross negligence on our part.

(6) The following shall apply, without prejudice to our legal rights: If the supplier fails to fulfill its obligation to provide supplementary performance - by remedying the defect (rectification) or by delivering a defect-free item (replacement), subject to our choice - before a reasonable deadline to be determined by us, we will be able to remedy the defect ourselves and request that the supplier reimburse us for any necessary costs incurred or provide us with an equivalent advance payment. If the supplementary performance provided by the supplier fails to work or is unacceptable to us (because of the particular urgency of the situation, the risk to operational safety, or the imminent risk of unreasonably serious loss or damage), a deadline will not be required; in such circumstances, we will inform the supplier immediately or, if possible, beforehand.

(7) In addition, in accordance with statutory provisions, we will be entitled to reduce the purchase price or withdraw from the contract where there are defects relating to quality or title. We will also be entitled to compensation for loss or damage and reimbursement of expenses, in accordance with statutory provisions.

(8) Unlike section 438 (1) (3) BGB, the general period of limitation for claims arising from defects will be 36 months following transfer of risk. If an acceptance procedure has been agreed, the limitation period will begin when acceptance is completed.

(9) The above limitation periods shall apply to all contractual claims for defects, within the scope of statutory provisions. If we are entitled to make non-contractual claims for damages as the result of a defect, the statutory limitation period shall apply (sections 195 and 199 BGB) if applying limitation periods for the purchasing right does not lead to a longer limitation period on a case-by-case basis.

### **Section 11 The Right of Use and Exploitation - Property Rights – Defect of Title - Limitation Period**

(1) If it is legally permitted to do so, the supplier will grant us the right to use and exploit all deliveries and services, without any additional charge.

(2) The supplier will guarantee that no third party rights will be breached in relation to or as a result of delivery, either within the Federal Republic of Germany or the country of destination stated in the order.

(3) If a claim is made against us by a third party for infringement of property rights as a result of the delivery from and the service provided by the supplier, the supplier will be required to indemnify us against these claims when first requested to do so in writing. If the third party makes a claim for loss or damage, the supplier will reserve the right to provide evidence that it did not cause the breach of the third party's rights. We will not be entitled to reach an agreement with the third party, in particular to reach a settlement, without the supplier's consent.

(4) The requirement on the part of the supplier to indemnify us against claims will involve all costs that accrue to us of necessity from or in connection with the claim by the third party, unless the supplier can provide evidence that it is not responsible for the breach of duty entailed by the infringement of property rights.

(5) We will also be entitled to exercise the statutory right to make claims in the event of defects.

(6) The 36-month limitation period in section 10 (8) shall also apply to claims arising from defects of title, and the statutory period of limitation for property claims made by third parties (section 438 (1) (1) BGB) will not be affected. In addition, claims arising from defects of title shall not lapse under any circumstances if the third party is still able to assert the right against us,

especially there is no limitation period. Section 10 (9) shall apply accordingly.

### **Section 12 Recourse against suppliers**

(1) In addition to an entitlement to make claims for defects, we will also be entitled, without limitation, and in accordance with statutory provisions, to make claims for recourse within a supply chain (recourse against suppliers, in accordance with sections 445a, 445b, and 478 BGB). In specific instances, we will be entitled to request that the supplier provide precisely the kind of supplementary performance (either repair or replacement) that we owe to our customer. Our legal right to choose the kind of supplementary performance (section 439 (1) BGB) will not be restricted by this entitlement.

(2) Before we accept or deal with a claim regarding a defect made by one of our customers (including reimbursing costs in accordance with sections 445a (1), 439 (2 and 3) BGB), we will inform the supplier and request a written statement containing a brief statement of the facts. If a detailed statement containing clear reasons is not provided within a reasonable period of time and if a mutually agreed solution is therefore not arrived at, the claim regarding a defect to which we agreed will be deemed to be owed to our customer. In a situation of this kind, it will be the supplier's responsibility to provide evidence to disprove the claim.

(3) Claims for recourse against the supplier shall then apply if the defective goods have been processed further by us or by another entrepreneur, by being incorporated into another product, for example.

### **Section 13 Product liability – Indemnity – Liability Insurance Cover**

(1) If the supplier is responsible for damage, it will be required to indemnify us against claims for damages from third parties when first requested to do so if the cause of the damage is within the supplier's control and organization and the supplier is liable to third parties.

(2) As part of its liability for claims within the meaning of paragraph (1), the supplier will also be required to reimburse us for any expenses incurred as a result of or in connection with one of our product recall campaigns, in accordance with sections 683 and 670 BGB, or sections 830, 840 and 426 BGB. As far as is possible and reasonable, we will notify the supplier regarding the content and extent of any recall campaign that needs to be carried out and will give the supplier the opportunity to comment. This will not affect any other statutory claims.

(3) In coordination with the supplier, we will take responsibility for providing the competent authority with the information required, in accordance with ProdSiG (German Product Safety Act) regulations.

(4) The supplier will undertake to hold product liability insurance with overall coverage of €10 million per personal injury case/property damage case; if we are entitled to make further claims for damages, they will not be affected.

#### **Section 14 Retention of Title – Provision – Tools**

(1) If we provide the supplier with any parts, we will retain title to them. Any processing or remodeling of the parts by the supplier will be done for our benefit. If the item to which we have retained title is processed with other items that do not belong to us, we will acquire co-ownership of the new items in the proportion of the value of our item (purchase price plus sales tax) to the other processed items when the processing takes place.

(2) If the item provided by us is mixed in with other items from which it cannot be separated and which do not belong to us, we will acquire co-ownership of the new items in the proportion of the value of the item to which we have retained title (purchase price plus sales tax) to the other mixed items when the mixing takes place. If the mixing takes place in such a way that the supplier's items are to be regarded as the main item, it shall be deemed agreed that the supplier will transfer proportionate co-ownership to us; the supplier shall retain the resulting sole ownership or co-ownership for us.

(3) We shall retain title to tools; the supplier shall be required to use the tools solely for producing the goods we ordered. The supplier shall be required, at its own expense, to insure our tools against damage caused by fire, water and theft, so as to cover the cost of replacement. At the same time, the supplier shall hereby transfer all claims for loss or damage arising from this insurance to us; we will accept the transfer of claims. The supplier will be required to carry out any necessary servicing, inspection, maintenance and repair work on our tools promptly and at its own expense. The supplier will be required to notify us immediately of any incidents that occur; if it culpably fails to do so, claims for loss and damages shall not be affected.

(4) If the supplier manufactures tools or production facilities that we pay for, then we will acquire title to the items once they have been produced. Paragraph 3 shall also apply mutatis mutandis.

(5) Any tools we supply must be returned to us by the supplier when it is first requested to do so, and no later than when the business relationship ends.

(6) If the secured goods to which we are entitled in accordance with paragraphs (1) and/or (2) exceed by more than 10% the purchase price of all the goods to which we have retained title but which have not been paid for, we shall be required, at our discretion, to release the secured goods if requested to do so by the suppliers.

(7) The goods must be transferred to us without conditions and regardless of whether the price has been paid. However, if, in particular instances, an offer from the supplier that is conditional on payment of the purchase price is transferred, the supplier's retention of title shall expire no later than when the purchase price for the delivered goods is paid. In the ordinary course of business, we will still be authorized to process and sell the goods before the purchase price is paid. All other forms of retention of title will be excluded, particularly retention of title that can be extended, expanded, passed on, or extended for further processing.

#### **Section 15 Confidentiality – Data Protection – Export Restrictions**

(1) The supplier will be required to keep all illustrations, drawings, plans, calculations, instructions, product descriptions and other documents and information strictly confidential. This documentation and information may only be disclosed to third parties with our express consent. The requirement to keep documentation and information confidential shall continue to apply once this contract has ended. This requirement shall cease to apply, however, if the manufacturing knowledge contained in the illustrations, drawings, calculations and other documents provided has entered the public domain, or the supplier can

demonstrate that the knowledge was known to it at the time it received the documents and information as set out in the first sentence of this paragraph.

(2) The provision above shall apply mutatis mutandis to substances and materials (such as software, finished and semi-finished products), tools, templates, samples, and other items that we provide to the supplier for manufacturing. Items of this kind shall be stored separately at the supplier's expense, unless they have been processed, and shall be adequately insured against destruction and loss.

(3) Products that are manufactured using the confidential information above or using our tools or production facilities may only be used by the contractor to implement this contract, and shall particularly not be offered or delivered to third parties.

(4) The supplier shall authorize us to store and process all data it provides as part of the contract for our own purposes, in accordance with the relevant provisions in the Data Protection Act. Once the order has been processed, the stored data must be deleted if it is no longer needed for the commercial relationship. All data must be deleted when the commercial relationship ends, at the latest.

(5) The supplier shall be required to notify us immediately of any export restrictions or other sovereign trade restrictions relating to its deliveries and services.

#### **Section 16 Place of Jurisdiction – Place of Performance – Applicable Law**

(1) If the supplier is a merchant, our registered office will be the place of jurisdiction; we shall, however, be entitled to sue the supplier at its local court.

(2) Unless otherwise stated in the order, our registered office will be the place of performance.

(3) This contract is subject to German law alone. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) shall not apply.

#### **Section 17 Severability Clause**

In the event that any of the provisions above should be or become invalid, this shall not affect the validity of the remaining provisions.