

**General Terms of Sale (GTS) of
Gebr. Hörr GmbH, Villingendorf**
for Business Relations with Merchants

§ 1 General provisions – scope

- (1) The following General Terms of Sale (GTS) apply to the contractual relationship between

Gebrüder Hörr GmbH

Hochwaldstraße 76

D-78667 Villingendorf

- hereinafter referred to as “Seller” or “We” -

and the **Customer** on the sale and supply of metal technology by the Seller to the Customer.

- (2) Our GTS documented hereinbelow shall apply to business relations with persons, who act in exercise of their commercial or independent professional activity (merchants) or who are legal entities of public law or a public-law investment funds. These GTS shall not apply to relations with consumers.
- (3) These GTS represent the exclusive basis for our deliveries, performances and quotations. We expressly object to any contrary, additional or deviating terms of the Customer. Our GTS shall also apply if We perform the delivery unconditionally in knowledge of contrary, additional or deviating terms of the Customer. Deviations from our GTS require our explicit agreement.
- (4) Our GTS in their respectively valid version shall also apply to future transactions with the Customer, insofar as they are legal transactions of the same or related nature.
- (5) Individual agreements made in the specific case with the customer shall take precedence over these GTS.

§ 2 Effectiveness of the contract, documents, written form

- (1) Our quotations are given subject to change and they are non-binding, unless We expressly refer to them as being binding. The Customer’s order is a binding offer to conclude a contract.
- (2) The contract shall become effective by our written order confirmation or performance of the service. We may accept an offer from the Customer, at our choice within 4 weeks by sending an order confirmation or by delivering the ordered products within this period.
- (3) We reserve property and other rights on illustrations, drawings, sketches, calculations and other documents. These must not be made accessible to third parties and they shall be returned to us immediately on our request.

- (4) Drawings, illustrations, dimensions, weights or other performance data shall be binding only if this has been expressly agreed in writing.
- (5) Models or drawings sent to us shall be returned to the Customer only on explicit request. If no order materialises, We shall have the right to destroy models and drawings three months from submission of the quotation.
- (6) If in doubt, warranties for properties and condition or durability, agreements on characteristics or declarations regarding the use of the object of delivery as well as side agreement shall be valid only if We confirm them in writing (Sec. 126 BGB [German Civil Code]). Agreements and information contained in our quotations regarding properties and condition, or the use of the object of delivery shall take precedence over the information in our brochures, demonstrator machines, drawings, descriptions, price lists and other documents. Verbal statements or assurances from the Seller given prior to the conclusion of this contract shall have no binding effect and verbal agreements between the Parties shall be replaced by the written contract, unless it is expressly stated in them, respectively, that they shall continue to have binding effect.
- (7) Subsequent changes or adjustments of the performances owed by the Seller shall be permissible if they are required according to common commercial practice or for technical reasons and if they do not cause an unreasonable burden on the Customer.

§ 3 Prices, terms of payment

- (1) Unless stated otherwise in the order confirmation, our current prices as at the date of the contract closing shall apply ex-works (Incoterms 2020 EXW GebrüderHörr, Villingendorf) without packaging, freight, postage, import and export duties and without the value added tax. The value added tax is shown separately on the invoice, in the statutory amount valid as at the date of the invoice.
- (2) The list prices apply as respectively valid on the date of the contract closing. If the delivery is to be executed only more than four months after the signing of the contract, the Seller's list prices as valid on delivery shall apply.
- (3) Unless stated otherwise in our order confirmation, our invoices are payable within 14 days from the invoice date with 2% discount (on the delivery price strictly net, excluding incidental costs and any surcharges) or within 30 days from the invoice date without deduction. The date of receipt of the payment by the Seller shall be decisive.
- (4) Payment will be deemed made only once We have final power of disposition over the amount; cheques shall be accepted only for payment. We shall be entitled, in spite of any provisions stating otherwise, to initially offset payments from the Customer against its older debts. If costs and interest have been incurred, We may credit the payment initially against the costs, then against interest and lastly against the main claim.

- (5) If the Customer does not fulfil its payment obligations, in particular if a cheque cannot be cashed or if the Customer suspends its payments or if it is in arrears for more than 14 days with undisputed claims in spite of a dunning or if enforcement procedures are taken against it unsuccessfully, We shall be entitled to call the entire remaining liability for payment even if We have accepted cheques. In that case, We shall furthermore be entitled to demand prepayments or securities for all contracts and withdraw from them after unsuccessful expiration of an appropriate grace period and demand damage compensation in lieu of performance.

§ 4 Delivery period, part deliveries and delivery quantities

- (1) Unless agreed otherwise, the delivery periods specified by us are non-binding and shall be understood as approximates only.
- (2) An agreed delivery period is subject to the proviso of our complete and timely receipt of supply from our contractual partners (proviso of own supply).
- (3) Agreed delivery periods shall begin on the date of the order confirmation, whereas not before all questions have been resolved and the Customer has fulfilled all obligations incumbent on it, in particular, including the provision of required documents and remittance of agreed prepayments.
- (4) Agreed delivery periods shall be deemed observed if the object of delivery was dispatched from the warehouse/factory before its end or if the Customer is informed of the readiness of shipment in the case shipment of the products should not be possible at no fault of our own.
- (5) The delivery period shall extend appropriately in the event of force majeure, for which purpose the appropriate length of time shall include the period in which the obstruction persists as well as an appropriate lead time. Events of force majeure are also events not anticipatable at the time of the signing of the contract, shortage of energy and raw materials, strikes, lockouts, measures by authorities, pandemics and epidemics, terrorist attacks and war. We shall inform the Customer immediately of the occurrence of force majeure and the expected end of this condition. The aforementioned circumstances are also outside of the our responsibility if they arise during an already present delay. If the condition of force majeure persists without interruption for more than three months or if the delivery date is postponed by more than three months due to several circumstances of force majeure, the Customer and We shall have a right to withdraw from the contract. The Customer shall have no claims to damage compensation based on such a withdrawal.
- (6) If We exceed the delivery period for reasons at our fault, We will be in delay of delivery if the Customer requests us in writing, after the end of the delivery period within a period of at least three weeks, to make the delivery and We let the period pass. In that case, the Customer shall have a right to demand a flat default compensation payment in the amount of 0.5% of the delivery value for each full week of default, whereas at most 5% of the delivery value. We reserve proving that no damage or only a lesser damage than the aforementioned flat sum has been incurred by

the Customer. The Customer has a right of withdrawal if it has set us another appropriate grace period for performance under threat of termination, which has passed unsuccessfully.

- (7) Further damage compensation claims of the Customer are excluded, unless one of the exceptions pursuant to § 8 (2) and (3) is given or a concrete delivery period is deemed agreed in the individual case as a primary obligation.
- (8) Part deliveries are permissible if the partial quantities of the delivered products can be used.
- (9) We reserve the right to deliver quantities in excess or shortfall by up to 10%.

§ 5 Call-off orders, delay of acceptance

- (1) Unless agreed otherwise, We shall be entitled in the case of call-off orders to set an appropriate grace period of at least 14 days to the Customer, after expiration of 6 months from the date of the order confirmation for call-off within an appropriate period, and to demand at our choice, after unsuccessful expiration of this period, either the acceptance of the quantities not called off yet and invoicing these, or to refuse delivery and demand damage compensation in lieu of performance.
- (2) If the Customer is in delay of acceptance or culpably breaches other duties to cooperate, We shall be entitled to demand flat compensation for the delay in the amount of 0.25% of the delivery value for each full week of delay, whereas at most 5% of the delivery value. It remains reserved for the Customer to prove a lower damage and it remains reserved for us to prove of a higher damage. In that case, the risk of accidental loss or accidental deterioration of the products shall also transfer to the customer at the point in time when the latter is in delay with acceptance. If the Customer refuses acceptance after expiration of an appropriate grace period of at least 4 (four) weeks set for or if it declares before then that it does not intend to accept the delivery, We may withdraw from the contract and demand damage compensation in lieu of performance.

§ 6 Transfer of risk, packaging and shipment

- (1) Unless determined otherwise in the order confirmation, delivery is agreed ex-works (Incoterms 2020 EXW, GebrüderHörr, Villingendorf). The risk shall transfer to the Customer – also if the delivery is made with freight paid – if the products are made available to the Customer at our place of business. If the Customer does not accept the products, for which We have already given a notification of readiness for shipment, at the place of delivery, the risk of accidental destruction shall transfer to the Customer as of the date of delivery; however, on the Customer's request and cost, We shall arrange for the insurance cover it requests.
- (2) The kind of packaging and shipment is within our dutiful discretion, unless agreed separately.

§ 7 Notification of defects, Customer's warranty rights

- (1) The type samples We present to the Customer for review or, alternatively, the applicable technical standards, shall be decisive for the quality and workmanship of the products. We do not accept any liability for such damages and defects, which are based on wear and tear by use as intended or excessive wear and tear, false or negligent handling by the Customer or third parties, effects from weather, chemical, electrochemical or electrical influences, if these circumstances are outside of our responsibility. Merely insignificant deviations from the owed properties and condition, in particular commercially customary quantity and quality tolerances do not represent any property defect.
- (2) If the Customer assigns us with the completion, preparation or reworking of products, it cannot be safely predicted, due to the particular characteristics, whether the contracted work can be performed successfully; in addition, also damages might occur on the items provided for processing. In such cases, We therefore do not owe any particular result of performance. This shall also apply if the objects to be processed originate from our own production.
- (3) The Customer warrants that the models, gauges, drawings and other information are suitable and true to dimension, consistent with the actual conditions, and that they do not infringe on the rights of third parties. This will not apply if the Customer has to refund the additional expense to us, which is caused by this. If a third party should claim a proprietary right in its entitlement, We shall be authorised – without being obligated to review the legal situation – to discontinue manufacturing and supply, to the exclusion of all damage compensation claims of the Customer. The Customer is obligated to exempt us immediately on request from third parties' claims of damages arising from alleged proprietary rights infringement.
- (4) If the Customer is a merchant, it is obligated to inspect performed deliveries for the absence of defects within seven working days from the transfer of risk and notify of any defects discovered in the process. If a defect is detected, which could not be discovered in the inspection pursuant to sent. 1, notification of this defect shall be given within seven working days from its actual discovery. Notification of any discovered defects shall be given to us in text form. The notification of defects shall include a detailed description indicating the suspected causes and effects. On request, We shall be provided with suitable documentation material, in particular, in the form of photographs.
- (5) If the Customer does not fulfil its obligation for inspection and notification of defects, the performance shall be deemed approved by it and it shall not be entitled to warranty rights. This shall not apply should We have fraudulently concealed the defect.
- (6) The Customer shall be obligated to bear the Seller's costs associated with an unjustified notice of defect.

- (7) We shall be entitled in consideration of the Customer's interests and the nature of the defect to determine the kind of subsequent performance (rectification of the defect or replacement delivery). Our right to fully or partly refuse the subsequent performance on fulfilment of the relevant legal conditions shall remain unaffected.
- (8) Any parts replaced during the subsequent performance shall become the Seller's property which must be surrendered.
- (9) We shall bear the expenses for subsequent performance to the extent they are expedient and required. Claims of the Customer arising from expenses becoming necessary for the purpose of subsequent performance, in particular transport costs, expenses for travel, labour and material shall be precluded if the expenses increase because the object of delivery has been taken to a place other than the customer's business site in retrospect, unless the transport corresponds to the use as intended.
- (10) If the defect is constituted in a proprietary rights infringement, We shall have the choice to either obtain a use right or modify our performance so that the proprietary right is not infringed or to replace it (subsequent performance). The same shall apply analogously if other defects of title are present.
- (11) The Customer may assert damage compensation claims within the scope of the legal regulations if a defect is fraudulently concealed from it or if We have extended a specific guarantee as an exception. Further damage compensation claims for defects of the object of delivery are excluded according to § 8 (1), unless one of the exceptions pursuant to § 8 (2) and (3) is given.
- (12) The Customer's warranty rights shall expire by limitation 12 months from delivery of the products, unless We are liable for intent or if longer periods are mandated by law. If an acceptance is agreed, the limitation period shall begin on the acceptance. This limitation period shall apply to all claims, especially also to claims for the compensation of consequential damage from defects, which are related to the defects if any.
- (13) Any rights of recourse of the Customer based on compulsory regulations regarding the purchase of consumer goods according to Sec. 478 BGB and based on recourse by the Seller according to Sec. 445a, 445b BGB remain unaffected.

§ 8 Liability, damage compensation

- (1) Unless stated otherwise in these GTS, damage compensation claims and expense refund claims of any kind by the Customer are excluded, regardless of their legal reason (hereinafter referred to collectively as "Damage Compensation Claims"). We will therefore not be liable, in particular, for lost profit or other financial losses of the customer.
- (2) The exclusion from liability according to para. (1) shall not apply to damages
 - arising from the injury to life, body or health, which are based on an at least negligent breach of duty at our fault;
 - for which We are mandatorily liable pursuant to the Product Liability Act; or

- which are based on an at least gross negligent breach of duty by us or our legal representative or vicarious agents.
- (3) The exclusion from liability furthermore does not apply to damages based on an at least negligent breach of a cardinal duty, which is essential to the contract and has been caused at our fault, if reaching the purpose of the contract is risked in consequence of the breach. Such a risk is given in the case of defects only if the defects are significant. In the case of a breach of a cardinal duty that is essential to the contract, our liability shall be limited to the predictable damage that is typical for the contract or for gross negligence or the damages arising from an at least negligent injury to life, body or health.
- (4) Insofar as our liability is excluded or limited, this shall also apply to the personal liability of our employees, workers, staff, representatives and vicarious agents.

§ 9 Reservation of title

- (1) We reserve the title to the delivered products up until the payment of all claims under the supply agreement and all older receivables having already been created as at the date of the signing of this contract, including all receivables from follow-up contracts, reorders and spare parts orders. In case of payments by cheque and bills of exchange, the reservation of title shall expire only if no recourse claims can be brought against us anymore.
- (2) The Customer is obligated to treat the delivered products with care. In the event of attachments or other interventions by third parties, the Customer shall inform us immediately.
- (3) In the event of any actions by the Customer contrary to the contract, We shall be entitled to take back the delivered products; if We take back or attach delivered products, this shall not constitute a withdrawal from the contract, unless We expressly declare our withdrawal.
- (4) A Customer with registered office in Germany shall be entitled to resell the delivered products in the ordinary course of business if the delivered products are intended for resale and it is not in default; however, on this day already, it assigns to us all claims and rights, which arise for it against its buyers from the resale. The Customer is empowered, subject to revocation, to collect the assigned claims. Our right to collect these claims ourselves remains unaffected; however, We shall not exercise this right for as long and insofar as the Customer fulfils its payment obligations, does not default on payment, and does not discontinue its payments in general. If We revoke the authorisation, the Customer shall disclose the assigned claims and their debtors to us, provide all related documents to us and notify the debtors of the assignment. If the Customer collects claims assigned to us without being authorised to do so or if it realises these in any other way, We shall be entitled to the collected amount or the sales proceeds in the full amount.

- (5) We undertake to release securities provided by the Customer on its request only insofar as their realisable value exceeds the claims to be secured by more than 10%. We shall have the choice of the securities to be released.
- (6) The processing or conversion of the object of purchase by the Customer, if it has its registered office in Germany, shall always be done on our behalf. If the object of purchase is processed together with other items that are not our property, We shall acquire joint ownership of the new object in proportion of the value of the object of purchase relative to the other processed items at the time of the processing. The item produced by processing is subject to the same provisions as the goods that were delivered subject to the retention of title. The same applies analogously if the purchased item is inseparably mixed with other objects that are not our property.

§ 10 Tools

If tools for the performance of the contract are manufactured or procured on our account, the tools shall be and stay our property, notably also independently of whether the Customer has paid us for the full or part of the costs of the tool, and regardless of whether the tools are transferred temporarily for use to the Customer.

§ 11 Type samples

- (1) Type samples shall be produced only upon explicit written agreement and exclusively against separate invoicing. If the Customer receives type samples, it shall be obligated to inspect the properties and condition of the type samples immediately upon their receipt to see if they meet the requirements posed and inform us of the result without delay by telephone, email or fax. At the same time, the Customer shall transmit the written production release or inspection report to us without delay. We shall suspend the production until the production release or inspection report is received.
- (2) On culpable delay of this inspection and notification obligation, the Customer shall pay a flat amount of 0.25% of the delivery value, whereas at most 5% in total of the delivery value, as compensation for the machine downtime per day from the day following the delivery of the type sample. It remains reserved for the Customer to prove a lower damage and it remains reserved for us to prove of a higher damage.

§ 12 Offsetting, right of withholding

- (1) Offsetting is permitted to the Buyer only against counter claims that are uncontested or established as final and absolute.
- (2) Para. 1 applies analogously to the exercise of a right to withholding.

§ 13 Place of performance, place of jurisdiction, applicable law

- (1) The place of performance is the place of our registered office.
- (2) In the business relationship with merchants, the exclusive place including the international of jurisdiction for all disputes arising from the contractual relationship shall

be the place of our registered office. However, We are entitled to sue the Customer also in its general place of jurisdiction.

- (3) Exclusively German law applies. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

§ 14 Written form

All changes and amendments to these General Terms of Sale and the waiver of their applicability require the written form according to Sec. 126 BGB. This also applies with regard to a potential waiver of this requirement of the written form.

§ 15 Severability clause

- (1) If one or more provisions of these Terms of Sale or parts of a provision should be invalid, this shall have no effect on the validity of the remaining provisions or the contract on the whole.
- (2) Paragraph (1) shall apply analogously in the event of an omission in provisions.

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