



General Terms and Conditions of Purchase

I. General Information and Scope of Application

1. These General Terms and Conditions of Purchase (hereinafter referred to as "Conditions") shall apply to all present and future contracts for sale, work and work performance regarding supplies and services between Harburg-Freudenberger Maschinenbau GmbH (hereinafter referred to as "Customer") and seller (hereinafter referred to as "Contractor").
2. These Conditions shall apply exclusively. The Customer shall not recognize any conflicting or differing terms and conditions of the Contractor unless the Customer expressly consents to the applicability thereof in writing. These Conditions shall also apply if the Customer unconditionally accepts deliveries in full awareness of conflicting or differing terms and conditions of the Contractor.
3. Individual agreements with the Customer made on a case by case basis (including side agreements, supplements and amendments) shall have precedence over these Conditions. The content of such agreements must be set forth in a written contract or written confirmation by the Customer.
4. Material declarations and notifications, which need to be issued by the Customer after conclusion, shall require the written form (e. g. setting of deadlines, demands for payment, notice of withdrawal).
5. References to the validity of statutory provisions have only clarifying significance. Therefore, the statutory regulations shall also apply without such a clarification insofar as they are not directly amended or expressly excluded in these Conditions.

II. Orders, Documents

1. Orders are binding only if they are issued in writing by the Customer.
2. Documents used by the Contractor in business dealings with the Customer must show: order number, item number, material number, full article text/item description, quantities and units of quantities as well as VAT ID (for imports from the EU).
3. The Customer shall retain the ownership rights and copyrights to illustrations, drawings, calculations and other documents provided to the Contractor. They may not be disclosed to third parties without prior express, written consent from the Customer. Such documents are to be used solely for production purposes based on the Customer's order. After settlement of the order, the items are to be returned to the Customer without reminder. They shall be kept strictly confidential to third parties. In particular, the use of queries, orders and related correspondence from the Customer for advertising purposes requires the previous written approval of the Customer.

III. Prices

The prices contractually agreed between the parties are fixed prices. They include everything to be effected by the Contractor for the purpose of discharging its obligation to perform.

IV. Scope of Services

1. The scope of services shall include, *inter alia*, the transfer of ownership by the Contractor to the Customer of all and any technical documentation (including that for subcontractors) required for maintenance, processing and operation of supplies and services (hereinafter referred to as "goods"). These technical documents must be in German and drawn up in compliance with the SI international standard system. The scope of services also includes the transfer of all rights by the Contractor to the Customer needed for the use of goods by the Customer or third parties with due regard for any patents or other property rights.
2. If the scope of services is to differ from that agreed, the contractor shall be entitled to price changes or schedule changes only if a corresponding supplementary agreement is concluded in.
3. The quantities ordered are binding. The Customer is entitled to reject excess deliveries at the Contractor's cost.

V. Quality

The Contractor is required to install and maintain a documented quality assurance system which is suitable in type and scope and which corresponds to the latest state of technology. The Contractor shall prepare records, in particular of quality inspections, and make these available to the Customer upon demand. The Contractor

herewith consents to quality audits by the Client or by the Client's agent to assess the effectiveness of his quality assurance system.

VI. Delivery Periods, Delivery Dates, Delay in Delivery

1. All agreed deadlines are binding.
2. Supplies/services provided before the agreed delivery dates shall entitle the Customer to refuse supply/service until it is due.
3. In case of a delay in delivery, the Customer shall be entitled to claim fixed rate damages for delayed performance amounting to 0.5% of the net order value for each commenced week of delay, but not exceeding a maximum of 5% of the net order value. The Customer reserves the right to submit evidence of greater damages. The Customer reserves the right to take further legal action in case of delay in delivery.
4. The Contractor is required to inform the Customer in writing without delay if circumstances occur or are identified which indicate that the delivery time agreed upon cannot be met.

VII. Delivery and Storage

1. Where delivery EXW (pursuant to Incoterms 2010) or FCA (pursuant to the Incoterms 2010) has been agreed upon, the Customer will only accept the cheapest freight cost in each case.
2. The stated addresses are to be complied with. The delivery to a reception point other than the one stated by the Customer shall not affect any transfer of risk for the Contractor even if this point accepts the delivery. The Contractor is to bear the additional costs which the Customer incurs through delivery being made to a point other than the agreed reception point.
3. Partial deliveries are to be marked as such; delivery notes are to be submitted in duplicate.
4. Where the Contractor has a right to the return of the packaging needed for the delivery, the delivery papers must contain a clear note regarding this. If such identification is missing, the Client will dispose of the packaging at the Contractor's expense; in this case the right of the Contractor to the return of the packaging shall lapse.
5. The storage on the Customer's premises of objects required for the provision of services is only permitted at the storage places indicated. The Contractor shall bear full responsibility and risk for these until the transfer of risk.
6. During transportation, the legal regulations are to be complied with, in particular the provisions of the law regarding the transport of hazardous materials and the applicable regulations on hazardous materials, including the related annexes and appendices.
7. Where shipment is by rail, the declaration regarding the goods in the bills of lading must comply with the current valid regulations of the railway companies. Costs and damages incurred due to incorrect declaration or failure to declare fall on the provider of the service.
8. The Contractor shall have the receipt of deliveries confirmed in writing by the Customer's indicated reception point.

VIII. Transfer

The Contractor is not entitled to transfer the task of producing goods to third parties, either in whole or in part, without the prior written approval of the Customer. The Contractor must provide the Customer upon request with the names of sub-contractors which deliver parts for manufacturing goods to the Contractor.

IX. Termination

The Customer reserves the right to terminate the contract for good cause if, *inter alii*, court insolvency proceedings are instigated in respect of the assets of Contractor or the Contractor ceases payment. The Customer reserves the right to take over material and/or semi-finished goods including any special equipment on reasonable terms and conditions.

X. Issuing Invoices, Payments, Offsetting

1. Payment shall be made in accordance with the written agreement, but at the earliest from the date of receipt of a proper invoice. Any delivery effected before the agreed date shall not affect the payment period tied to this delivery date.

2. The Contractor may only offset undisputed or legally established claims.
3. If no agreement is reached regarding the date of payment, the invoice shall be settled at the end of the month following proper delivery and receipt of proper invoice.

XI. Retention of Title

Title to goods shall be transferred to the Customer unconditionally and regardless of whether the purchase price has been paid. All forms of extended or prolonged retention of title shall be excluded so that a potentially effective reservation of title declared by the Contractor shall only apply up to the payment of the goods delivered to the Customer by the Contractor and only for the respective goods.

XII. Defective Delivery

1. The Customer's rights in the event of defects as to quality and defects of title of the goods (including wrong delivery and short delivery as well as incorrect assembly and inadequate assembly and operating instructions) and in case of other breaches of duty by the Contractor, the statutory provisions apply unless agreed otherwise in the following.
2. In accordance with statutory provisions, the Contractor will be liable for exhibiting the agreed property of the goods and the fulfilment of the intended purpose. In any case, those product descriptions that are the subject matter of the respective contract or incorporated in the contract in the same way as these conditions of purchase - in particular due to identification or reference in the Customers' order - shall be valid as an agreement on the property and intended purpose. It shall be immaterial whether the product description originates from the Customer, from the Contractor or from the manufacturer.
3. Notwithstanding § 442 section 1, sentence 2 BGB [German Civil Code], the Customer is also entitled in sale or work performance contracts to claim for defects without restriction if the defect remained unknown to the Customer upon conclusion of the agreement as a result of gross negligence.
4. The commercial duty to examine and notify defects in sale or work performance contracts shall be governed by the statutory provisions (§§ 377, 381 HGB [German Commercial Code]). The Customer shall inspect the goods with regard to possible defects within a reasonable period of time. In any event, the complaint shall be in good time insofar as it is received by the Contractor within a time limit of 10 working days after delivery of the goods to the Customer. Notice of hidden defects shall be regarded as having been given in time if they are reported to the Contractor by the Customer within a time limit of 10 working days after discovery. The working days of the Customer count as working days count.
5. In the event that goods are defective, the Customer can demand, at its choice, remedy of defects (subsequent improvement) or delivery of an item free of defects (replacement delivery). In the event that the Contractor shall not honour his obligation for supplementary performance within a reasonable time-limit as set by the Customer, the Customer shall be able to remedy the defect himself and demand from the Contractor compensation for the expenses necessary for this or an appropriate advance payment. A deadline shall not be necessary in the event that supplementary performance by the Contractor shall be abortive or unacceptable for the Customer (e. g. on account of special urgency, operating safety hazard or imminent occurrence of disproportionate damages); the Customer shall be informed of this immediately, if at all possible in advance.
6. The deemed place of performance for subsequent performance is the place where the goods are located at the time when the defect occurred. The Contractor shall pay all the expenses incurred for the purpose of remedying, in particular transport, travel, labour and material costs. If the goods are installed in other equipment, the Customer itself shall remove the goods or defective part of the goods from the equipment, in which the goods were installed, and install goods delivered as substitute or spare parts instead, or to bear the costs required for dismantling and installation of the goods delivered as substitute or spare part.
7. Upon receipt by the Contractor of the written notification of defects, the statutory limitation of guarantee claims for material defects is inhibited. The statutory limitation of guarantee claims for material defects begins anew for replacement delivery and subsequent improvement, unless, based on the behaviour of the Contractor, the Customer has to assume that the Contractor did not see the measure as a necessity, but instead conducted such solely for reasons of maintaining goodwill or similar reasons.
8. Moreover, the Customer shall be entitled to reduction of the purchase price or withdrawal from the contract according to the statutory provisions in the case of defects of quality and defects of title. Moreover, the Customer shall be entitled to compensation for damages and reimbursement of expenses according to the statutory provisions.

XIII. Product Liability, Indemnification, Insurance Cover

1. Insofar as the Contractor shall be responsible for damage to a product, it shall be indemnify the Customer at first request in this respect from claims to third parties, as the cause is positioned in his area of command and organization and he is liable himself in relation to third parties.
2. Within the framework of its duty of indemnity /liability acc. to paragraph 1, the Contractor shall also reimburse any expenses acc. to Articles §§ 683, 670 BGB or acc. to Articles §§ 830, 840, 426 BGB that arise from or in conjunction with a claim by third parties, including product recalls that the Customer has carried out. Insofar as this is possible and reasonable, the Customer shall inform the Contractor regarding contents and extent of product recalls and give him the opportunity to comment. Legal claims in excess of this shall remain unaffected.
3. The Contractor shall maintain product liability insurance policy with a lump-sum amount insured of at least € 10 million per personal injury/property damage. Upon request at any time the Contractor shall send a copy of the product liability policy to the Customer.

XIV. Statutory Limitation

1. Unless specified below, the limitation of mutual claims shall be governed by the statutory provisions.
2. The general limitation period for claims arising from defects in quality and defects in title shall be 36 months, in contracts for sale or work performance beginning from delivery of the goods at the Customer and in contracts for work beginning from acceptance, unless the legally compulsory regulations of §§ 478, 479 BGB apply. Insofar as an acceptance has been agreed in contracts for sale or work performance, the limitation period will also start with acceptance. The statutory limitation period for material claims for the restitution of property by third parties (§ 438 section 1 no. 1 BGB) remains unaffected.
3. The limitation periods applying under the law governing the sale of goods – or the law on contracts for work and services regarding contracts for work - including the aforementioned extension acc. to figure 2 – to the legal extent - shall apply to all contractual claims for defects. The regular limitation period (§§ 195, 199 BGB) shall apply to any non-contractual claims we may have for damages on account of defects, unless the application of the limitation period under the law governing the sale of goods leads in a particular case to a longer limitation period.

XV. Liability of the Contractor and Extent of Liability

1. Claims for damages or the reimbursement of lost expenses by the Contractor against the Customer, its executive bodies and legal representatives and/or agents or employees (hereafter referred to as "Harburg-Freudenberger"), irrespective of legal grounds, in particular due to a breach of an obligation and/or because of an unlawful act (hereafter referred to as "claims for damages") shall be excluded.
2. This shall not apply if Harburg-Freudenberger is liable for culpable or gross negligence and/or breach of major contractual obligations. Major contractual obligations are such obligations whose fulfilment makes the due performance of the contract possible in the first place and the observance of which the Contractor relies on, and may rely on, regularly.
3. In cases of non-culpable or non-grossly negligent violation of major contractual obligations the extent of a claim is limited to the compensation of contract-coherent and foreseeable damage.
4. The aforementioned limitations and exclusions of liability shall not apply to claims such as those deriving from Harburg-Freudenberger's fraudulent behaviour, nor to liability for guaranteed characteristics, to requirements under the Product Liability Act and damages because of death and injury of body and health.

XVI. Place of Fulfilment, Jurisdiction

1. Place of fulfilment for all supplies/services shall be the place of receipt for the goods stated by the Customer.
2. If the Contractor is registered as a merchant under German law, legal entity of public law or a separate estate under public law, the exclusive place of jurisdiction for for all disputes – including international – resulting directly or indirectly from the contractual relationship is the Customer's place of business, i. e. Hamburg. The Customer is authorized to sue the Contractor at his locality/residential place of jurisdiction.

XVII. Applicable Law

Legal relations between Customer and Contractor shall be subject to the jurisdiction of the Federal Republic of Germany to the exclusion of the United Nations' Convention of 11 April 1980 on the Contracts for International Sale of Goods (CISG) in the currently valid version.

XVIII. Confidentiality

In addition to figure II.3 of these Conditions, the Contractor shall maintain confidentiality towards third parties in respect of all operational events, facilities, plants, documents etc. used at Customer's premises or those of his customers which become known to the Contractor in connection with the activities of the Customer, also after submission of the corresponding offers and after completion of the contract. The Contractor shall impose corresponding obligations on his agents.

XIX. Partial Invalidity

If one or more provisions of these Conditions are or become completely or partly invalid, infeasible or unenforceable, the other provisions shall not be affected thereby. Instead of an invalid, infeasible or unenforceable provision, both parties shall agree a provision which is close to the original and intended sense and purpose of the invalid, infeasible or unenforceable provision. This shall also apply to any gap in this contract and to cases in which invalidity is based on a degree of performance or time; in such cases the nearest legally permissible measurement shall replace the invalid one in the provision.

As of: September 2011