

General Conditions of Sale and production of works

Holtmann Fahrzeug- & Maschinenbau GmbH

§ 1 General terms, scope

- (1) Our General Conditions are exclusively applicable; conflicting terms of the customer or terms of the customer dissenting from our General Conditions will not be accepted by us unless we expressly consent, in writing, to their application. Our General Conditions will be even applicable if we execute the delivery to the customer or works without reservation knowing about the conflicting terms of the customer or about the terms of the customer dissenting from our General Conditions.
- (2) All undertakings stipulated between us and the customer for the purpose of the execution of this contract, are laid down in this in a written form.
- (3) Our Conditions also apply to business owners.
- (4) Our Conditions will also apply on all future business with the customer.
- (5) The contract, including the General Terms and Conditions, is subject to german law.

§ 2 Delivery time

- (1) The delivery period or delivery date declared by us is not binding. Any commitments as to delivery times are only binding if they are expressly confirmed in writing by us.
- (2) If the Purchaser puts us in default due to our failure to comply with an agreed and binding delivery time, he shall only be entitled to claim damages for non-performance to the amount of foreseeable damages if our default or delay is caused with intent or gross negligence or through breach of an essential contractual duty; otherwise the liability for compensation damages is limited to 50% of the amount of the occurred damage.
- (3) Compliance with our delivery obligations presupposes the punctual and proper fulfillment of the Customer's obligations.
- (4) If the Customer delays acceptance or infringes other cooperation duties, we shall be entitled to demand compensation for any resulting damage, including any additional expenses. In such case, the risk of accidental loss or accidental deterioration of the goods shall be transferred to the purchaser at the moment in which his default or delay of acceptance commences.

§ 3 Transfer of Risk

- (1) Unless otherwise stated in the Order Confirmation, delivery is stipulated "ex works".
- (2) If the buyer so wishes, we will cover the delivery with transport insurance; any costs so incurred are to be borne by the buyer.
- (3) Ownership of the goods is transferred – subject to the retention of title agreed upon – at the earliest, upon delivery of the goods to the purchaser.
- (4) Acceptance - The customer is obliged to accept the work produced in conformity with the contract, except to the extent that, in view of the quality of the work, acceptance is excluded. Acceptance may not be refused by reason of trivial defects. It is equivalent to acceptance if the customer does not accept the work within a reasonable period of time specified for him by us, although he is under a duty to do so. If

the customer accepts a defective work, even though he knows of the defect, he only has the rights designated in section 634 nos. 1 to 3 of German Civil Law, if he reserves his rights with regard to the defect when he accepts the work.

§ 4 Warranty for defects

- (1) The Customer's statutory warranty rights shall be dependent upon the Customer having properly complied with his duties of inspection and complaint. Defects must be notified immediately upon receipt of the goods.
- (2) Insofar as the purchased goods are defective, and we are responsible for the defect, we shall remedy defects, at our own discretion, by either repairing or replacing the defective item/s. Where the defect is to be remedied, we undertake to bear all costs necessary with a view to remedying the defect/s and especially transportation, travelling, labor and material costs, provided that such costs are not increased by the fact that the purchased goods have been taken to or are located at a place other than the place of performance. The right to subsequently tender is hereby expressly agreed.
- (3) If we are not willing or able to either remedy the defect or replace the goods, or if such remedy/replacement is delayed beyond a reasonable time for reasons we are liable for, or should the remedy/replacement fail in any other way or manner, the Purchaser shall be entitled, at his option, to either cancel the contract (rescission) or demand a corresponding reduction in the purchase price (reduction).
- (4) Unless otherwise provided for below (paragraph 5), any further claims by the purchaser – regardless of the legal grounds - are excluded. Therefore we shall not be liable for any damage that did not occur on the delivered item itself; particularly, we shall not be liable for any loss of profits or other economic or financial loss incurred by the purchaser.
- (5) If we are in culpable breach of a fundamental contractual obligation or a "cardinal" duty, our liability shall be limited to compensation of contract-typical and foreseeable damage; otherwise our liability shall be excluded pursuant to paragraph (4).

§ 5 Retention of title

- (1) We shall retain ownership of the goods supplied until payment in full of all receivables arising from this agreement, including subsidiary claims, compensation for damages, and the encashment of bills and cheques. The retention of title shall also apply if any individual claims of the Vendor are included in a running account, insofar as the account has been balanced and the statement of account acknowledged. If the Purchaser behaves in a manner contrary to the terms of the contract, especially in the case of non-payment, we shall be entitled to repossess the goods. The repossession of goods by us shall not constitute rescission of the contract, unless we expressly state otherwise in writing. The seizure of goods subject to retention of title by the Vendor shall constitute a withdrawal from the contract. Once we have repossessed the goods, we shall be entitled to sell them, the sale proceeds shall be offset against the Purchaser's liabilities with deduction of the reasonable sales costs.
- (2) In the event of seizure or other interfering measures by third parties, the Purchaser must inform us immediately in writing, so that we can file a suit according to Section 771 of the German Code of Civil Court Procedures (ZPO). If the third party is unable to reimburse the legal, both judicial and extra-judicial costs we incurred on the basis of a proceeding pursuant to Section 771 ZPO, the purchaser shall be liable for any loss thereby incurred by the Vendor. The Buyer must also notify the Vendor in advance of any pledging or other security assignment(s) of reserved goods.
- (3) The purchaser has the right to resell the purchased goods in the ordinary course of business, however, he hereby assigns to us all existing and future claims to the extent of the mutually agreed invoice final amount (including VAT) arising from the resale of our goods to his customers or third parties, regardless of whether such goods have been resold without or after further processing. The purchaser shall retain the right to collect such receivables after assignment. This does not affect our right to collect the assigned receivables ourselves. However, we undertake not to collect any claim as long as the purchaser fulfills his payment obligations from the collected proceeds, is not in arrears with payment, and especially no application for insolvency, bankruptcy or judicial composition proceedings has been filed or

the purchaser has not suspended payments. However, should this be the case, we are entitled to demand that the purchaser disclose the assigned claims and their debtors, share all information necessary for collection, surrender all relevant documentation and inform the debtors (third parties) of the assignment. The rights of the purchaser to resell, process and install the reserved goods shall be forfeited upon any filing for insolvency, bankruptcy or judicial composition proceedings against the purchaser himself.

- (4) The purchaser shall hereby assign to us any existing accounts receivable to secure our claims against him, arising against a third party as a result of the combination of the purchased goods with real property
- (5) If the value of the security rights to which we are entitled exceeds the value of all secured claims by more than 10 %, we are obliged, if so requested by purchaser or a third party damaged by the excessive security backing, to release security at the purchaser's discretion.

§ 6 Place of Jurisdiction - Place of Performance

- (1) If the customer is a merchant, the place of jurisdiction shall be Cologne, Germany; however, we shall be entitled to sue the Customer at the court of his domicile, too.
- (2) Unless otherwise stated in the Order Confirmation, the place of performance shall be our headquarters.