

1 Validity

- 1.1. The following general terms of sale and delivery are valid for all contracts between HORN and its customers regarding all goods, services and deliveries to be supplied (hereinafter "supplies"). Any differing conditions of a customer not explicitly confirmed by HORN in writing are not binding and will not become part of the contract. For customers not being merchants according to section 1 of the "Handelsgesetzbuch" (German Commercial Code, HGB) the following general purchase terms are not valid and the public laws of Germany, especially those of the "Bürgerliches Gesetzbuch" (German Civil Code, BGB) shall be applicable.
- 1.2. Submission of offers by HORN shall be nonobligatory. Documents the offer is referring to, such as pictures, drawings, colours, weights and dimensions are only approximately relevant. Offers are valid in written form only.
- 1.3. Contracts shall be concluded by acceptance of the customer's order by way of written order confirmation (hereinafter "contract") of HORN, whereby the content of the order confirmation determines the contract conditions firmly for both parties unless the customer contradicts immediately, but within five days after order confirmation at the latest. In case of immediate delivery HORN's invoice shall be considered as order confirmation. Real execution of the customer's order by HORN shall be deemed as implied confirmation of the customer's order. In each and every case these general terms of sale and delivery shall be included even without explicit reference thereto, provided that these have been made available to the customer in an appropriate manner. This shall be the case, if these general terms are available under www.hornglas.de.
- 1.4. In case of permanent business relations these general terms are valid also for future contracts in which no explicit reference to these general terms is made, provided these general terms have been made available to the customer with an order or contract previously.

2 Prices

- 2.1. The prices agreed upon are to be understood as ex works, without freight, customs, duties, additional import fees, carriage and packing (EXW, Incoterms 2010).
- 2.2. In case relevant cost factors change considerably between offer submission or order confirmation and delivery, both HORN and customer shall come to an agreement concerning price adjustment and share of the costs.
- 2.3. As for new orders (= follow-up orders), HORN shall not be bound to the previous prices.

3 Payments

- 3.1. Unless agreed otherwise in writing, invoices are due for payment within eight days upon receipt in the currency invoiced without deduction and free of bank charges.
- 3.2. As soon as the agreed date of payment is exceeded, delay in payment shall occur immediately without further notice in variance to section 286 Abs.3 BGB (German Civil Code).
- 3.3. In case the agreed date of payment is exceeded, interests amounting to 9 % per annum above the base interest rate (Basiszinssatz) shall be charged unless HORN proves higher interest on the debited balance. Moreover, HORN has the right to charge damages caused by delay pursuant to section 280 Abs.1 and 2 BGB (German Civil Code).
- 3.4. Rejection of cheques and bills of exchange remains reserved. Cheques and bills of exchange eligible for rediscount shall only be accepted as conditional payment, all expenses in connection with this are at the customer's account. HORN reserves the right to charge fees amounting to 2 % of the invoice amount for possibly agreed payment by cheque.
- 3.5. Non-observation payment dates or circumstances founding reasonable doubts concerning the credit worthiness of the customer shall result in immediate maturity of all receivables against the customer. Furthermore, HORN shall be entitled to demand payment in advance for open deliveries and to terminate the contract after appropriate extension of the original payment date or to claim for indemnity, also to prohibit resale and to retrieve supplies which have not been paid for at the customer's expense.
- 3.6. HORN shall be entitled any time to demand securities usual in their volume and extent at its option or cash in advance for its receivables, also as far as these are conditioned or limited in time.
- 3.7. If a discount has been granted in writing, settlement of all undisputed invoices previously due shall be precondition for this. For possible payments by bill of exchange, a discount shall not be granted.

4 Terms of Delivery

- 4.1. Unless agreed otherwise, shipment of the supplies shall be made at the account and risk of the customer.
- 4.2. Appropriate partial shipments as well as minor deviations of up to +/- 10 % shall be admissible.
- 4.3. HORN shall neither be obliged to deliver supplies for exportation to a domestic destination nor to deliver supplies for domestic delivery to a foreign destination. HORN shall be entitled to request a certificate of export.
- 4.4. Packing shall be effected in accordance with ordinary trade usage, unless a special kind of packing has been agreed.
- 4.5. Auxiliary means of transport made available to the customer shall remain property of HORN notwithstanding deposit of a pledge and shall, unless agreed otherwise, be returned to HORN immediately and directly after the intended use, however, upon expiration of six months since HORN made them available at the latest. If the customer fails in his obligation to return the auxiliary means of transport within the time period stated above or in spite of request by HORN fixing a time-limit, HORN shall be entitled to charge the full replacement cost for the auxiliary means of transport to the customer. HORN shall be entitled to refuse acceptance of auxiliary means of transport returned late or damaged. In case of damage, the claim for damages also comprises the cost for disposal.
- 4.6. If the supplies include assembly work, the customer shall arrange his facilities, infrastructure etc. in such way that the assembly work can be executed at the time and place agreed. If the beginning of the assembly work is delayed for reasons not attributable to HORN, the customer shall bear the costs (e.g. accommodation for fitters, additional travel expenses) caused by such delay.
- 4.7. Delivery dates start upon the moment of conclusion of the contract, receipt of all documents required for performing, receipt of the down payment (if agreed upon) and receipt of the timely orders of material (if agreed upon). If shipping is impossible or delayed due to reasons not attributable to HORN, the respective delivery date shall be considered as observed upon notification being ready for shipment.
- 4.8. If a delivery date is not observed due to reasons fully attributable to HORN, unless in case of gross negligence or willful act, the customer shall with exclusion of any other claims be entitled to claim for damages resulting from this delay or to terminate the contract after expiration of a reasonable additional period of time, provided the customer has indicated rejection of the respective supply in writing when fixing the final date. This compensation for damage resulting from delay shall be limited to 5 % at maximum above the base interest rate for the part of the delivery which was not effected in conformity with the contract.
- 4.9. As for call-orders without agreement of duration and deadlines for acceptance, HORN shall be entitled to request binding determination thereof three months upon order confirmation at the latest. If the customer does not comply with this request within three weeks, HORN shall be entitled to fix an additional time period of two weeks and to terminate the contract after expiration of this additional time period or to refuse delivery and claim all resulting damages according to German law. If the customer demands an exceeding quantity in relation to the agreed quantity of the call-order, HORN shall be entitled to its discretion either to deliver the originally ordered quantity or to deliver the exceeded quantity by charging the additional price on basis of the actual rate.
- 4.10. All supplies to be delivered by HORN shall be listed as entire scope of supply in the order or order confirmation. Additional supplies, performance or other extra services shall only arise from written agreement, in which these are explicitly referred to as "supplement".

5 Acceptance

- 5.1. The supplies shall be accepted when HORN transmits them to the customer as agreed.
- 5.2. It shall be equal to acceptance by the customer if the customer uses the supplies for the intended purpose respectively puts them into operation.
- 5.3. As far as the supplies are to be delivered to a place other than the place of delivery and performance, the danger for deterioration or accidental destruction passes -even by delivery with prepaid freight- from HORN to the customer with the moment the supplies leave the supplying plant (passing of risk). In case shipment is delayed for reasons not attributable to HORN the transfer of risk shall take place already upon notification of readiness for shipment.
- 5.4. Moreover, transfer of risks shall take place in cases of customer's default of acceptance or impossibility of performance according to section 326 Abs. 2 BGB (German Civil Code) due to the customer's attributable.

6 Force majeure

- 6.1. In case of industrial dispute in the company, disturbance, force majeure and other unforeseeable and inevitable incidents HORN is concerned is not responsible for, HORN shall be exempted from its obligation of delivery respectively acceptance for the period the disturbance persists and to the extent of its impact. If the disturbance persists for more than one month after the date of delivery originally agreed has expired, each party shall be entitled excluding all other claims to terminate the contract with regard to the quantity concerned by the disturbance of delivery or acceptance. If partial delivery has been supplied, the customer is obliged to pay this partial delivery. In such case any assertion of claims for damages shall be excluded.
- 6.2. The regulations in this clause 6.1 shall also apply in case the impediments stated above occur with a sub-contractor or during delay of HORN. If a case of force majeure occurs, each party shall notify the other party thereof immediately.

7 Liability

- 7.1. HORN is obliged to deliver the contractual determined scope of supply to the customer without defects. A defect is given in case of deviations between actual conditions and contract conditions and/or parameters agreed as far as they are essential and fully attributable to HORN. A defect shall be deemed as essential when the total contract value is reduced by 10% at minimum due to this defect and functioning of the entire scope of supply is considerably impaired by existence of this defect. Considerable impairment is given when the entire scope of supply cannot be used for the intended purpose (e.g. in conformity with the description of function / operating instructions). Variations of documents the contract is based upon, customary in trade and in this branch (e.g. pictures, drawings, colors, weights and dimensions), shall not be deemed as defect. As for supplies sold as downgraded material, the indicated faults, and such faults the customer usually must expect, shall also not be deemed as defect.
- 7.2. Notifications of defects shall be sent immediately, but five calendar days upon receipt of the supplies at the latest in writing together with presenting a copy of the respective invoice. When the customer notifies a defect, he shall immediately give HORN the opportunity to convince itself of the defect and shall in make available the criticized supply or samples thereof to HORN. Alternatively, HORN may request the customer to send to HORN the criticized supply for inspection or subsequent remedy. For hidden defects, the time limit for notification shall be extended to five calendar days upon ascertainment of the defect.
- 7.3. Warranty agreements shall be concluded by individual contract, require written form for validity and must be designated as "warranty". Reference to technical standards, technical specifications and performance parameters in contracts, orders, offers or other parts of the contract shall serve for project description only. If the supplies differ in their nature from what was to be expected according to public statements of HORN, manufacturers or assistants, especially in advertising or for identification of certain qualities, a defect in quality shall only be deemed if these statements were explicitly made subject of a certain quality agreement between the parties.
- 7.4. In case a defect occurs, the customer shall have the right for subsequent improvement, whereby HORN is obliged at its discretion for subsequent improvement or replacement. If the subsequent improvement fails within reasonable period of time, the customer shall be entitled to demand diminution of the contract price or to terminate the contract and demand reimbursement of the additional expenses. Upon request replaced parts shall be returned to HORN unfee. If the customer chooses to terminate the contract he shall not be entitled to claim for damage due to this defect. In case only parts of the supplies are defective, the customer shall be entitled to terminate the contract only if the defective part is an essential component of the scope of supply.
- 7.5. Any liability for wearing parts shall be excluded.
- 7.6. Unauthorized re-working, unsuitable or improper use and storage or non-observance of instructions for processing and operation as well as improper usage of the supplies shall result in loss of all warranty and other claims in relation to defects. Only for mitigation of disproportionately big damages or if HORN is in delay with improvement or replacement actions the customer shall be entitled to execute subsequent improvement after previous notification to HORN and to demand reimbursement of reasonable cost.
- 7.7. Claims for damages shall be excluded, if HORN or its vicarious agents did not act deliberated or reckless. This shall not apply for breaches of essential contractual obligations, fatal and physical injuries and injury to health as well as for claims in conformity with the product liability law (Produkthaftungsgesetz).
- 7.8. In case of assertion of damage claims, HORN's accountability shall, however, be limited to compensation of foreseeable, typically occurring damages. In this context, liability is excluded for damages not being in direct causal connection, especially regarding loss of profit and loss of production.
- 7.9. Limitation period for all claims out of the contract shall be 12 months, starting from acceptance according to clause 5, but 18 months after delivery at the latest. This shall not apply to claims for damages caused by deliberated or reckless actions and to damage claims resulting from fatal and physical injuries and injury to health.

8 Industrial property rights

- 8.1. The legal liability of HORN concerning the existence of rights of third parties based on industrial or other intellectual property ("industrial property rights") is limited to such industrial property rights being effective in the Federal Republic of Germany. If the supplies are to be resold to another state ("third country") or are to be used in another way in a third country in conformity with the agreement made between the parties, HORN shall pursuant to the legal provisions also take the responsibility for that there are no industrial property rights existing in the third country which might be asserted with regard to the customer. In case of missing agreement on resale or use in a third country between the parties, HORN shall pursuant to the legal provisions take the responsibility for that there are no industrial property rights existing in the Federal Republic of Germany and in the country of the customer's registered office.
- 8.2. If HORN is obliged to deliver according to drawings, models, samples or using parts made available by the customer, the customer guarantees non-infringement of industrial property rights of third parties. The customer shall indemnify HORN from third party's claims and pay compensation for damages. If HORN is prohibited from production or delivery by a third party referring to an industrial property right belonging to them, HORN shall be entitled to stop work without investigating the legal situation.
- 8.3. HORN is appertained to copyrights and industrial property rights for models, machines, sketches and drawings made by them or by third parties on behalf of HORN. This shall also apply to such written documents designated as "confidential". Transmission thereof to third parties by the customer requires HORN's explicit written approval.

9 Secrecy

- 9.1. Tools, models, drawings and other documents made available by HORN or produced for HORN may only be used for performance of this contract.
- 9.2. The transmission of products as well as of all documents and notes established during execution to third parties respectively publication thereof requires previous written consent by HORN.
- 9.3. Establishment as well as processing and treatment of such tools, models, drawings and other documents not explicitly included in the scope of supply shall be made for HORN as producer with the consequence that HORN shall acquire ownership thereof.
- 9.4. The customer shall engage to keep absolute silence and to treat as own company secrets all observations and perceptions as well as negotiations, design discussions and documents related to the contract. The customer shall impose the same obligation on all persons acting and already acted in connection with this contract.
- 9.5. Specific information and technical knowhow of HORN's business received by the customer within the scope of the contract is property of HORN solely. The customer is obliged to treat this knowhow as own company secret, not to transfer this knowhow to third parties in any kind and to establish proper protection against unauthorized access (e.g. by password protection of data, IT encryption). In case of deliberate or negligent breach of this obligation by the customer, HORN is entitled to claim for all resulting damages. Knowhow being delivered within the scope of supply is excluded from this clause.

10 General terms

- 10.1. If the scope of supply includes assembly work a project manager or agent responsible for execution of this contract will be communicated by HORN, if necessary.
- 10.2. The supplies shall remain the property of HORN until full payment of the contract price and of all other receivables for deliveries and services arisen and arising from ongoing business relations between HORN and the customer (reservation of title). For current accounts, the reserved title of the supplies (reserved goods) shall be valid as security for the account balance of HORN. If a liability of HORN arising out of a bill is legally constituted in connection with a payment, the reservation of title shall not be discharged before the bill of exchange has been honored by the customer as drawee.
- 10.3. If HORN makes goods/merchandise available to the supplier, these shall remain property of HORN until all -also future- claims of HORN during the ongoing business relation have been completed. These goods/merchandise shall be marked as possession for another and shall be stored free of charge separately from the supplier's property.
- 10.4. Treatment or processing by the customer shall be effected excluding acquisition of title according to section 950 BGB (German Civil Code) on behalf of HORN; HORN shall become co-owner of the new merchandise created in proportion of the net invoice value of its goods/merchandise to the net invoice value of the new merchandise; the new merchandise shall serve as reserved goods for securing the claims of HORN. If the title of HORN is discharged because of adjunction, intermixture or processing, the customer shall already now transfer the rights of ownership and expectancies the customer is entitled to with regard to the new merchandise to HORN to the extent of the invoice value of the reserved goods, in case of processing in the proportion of the invoice value of the reserved goods to the invoice value of the new merchandise, and the customer shall store the new merchandise for HORN free of charge. The co-ownership of HORN itself shall be deemed as reserved goods in the meaning of these provisions.
- 10.5. Resale of the reserved goods is permitted to the customer – if he is not in delay – on the condition that the customer also agrees upon reservation of title with his client (extended reservation of title). The customer shall not be entitled to other dispositions concerning the reserved goods, particularly pledging and transfer of ownership by way of security. Using the reserved goods for execution of contracts for work or contracts for work and materials by the customer shall also be considered as resale.
- 10.6. In case of resale the customer shall already now assign all claims including all subsidiary rights to HORN, which arise from the resale with regard to his clients. Upon request by HORN the customer shall be obliged to give all information and to transmit all documents required for assertion of the rights in relation to these clients.
- 10.7. HORN shall be notified immediately of levy of execution or confiscations of the reserved goods by third parties. Intervention costs arising therefrom shall always be at the customer's expense unless third parties bear them.

11 Place of delivery, applicable law and place of jurisdiction

- 11.1. Unless agreed otherwise, the place of delivery and performance is Plössberg, Germany as registered seat of HORN.
- 11.2. Applicable law shall be German law. In addition -but not substituting- to these general terms, the following regulations and laws are valid in the following ranking: German Commercial Code (Handelsgesetzbuch, HGB), German Civil Code (Bürgerliches Gesetzbuch, BGB) in their respective versions. The stipulations of the Act on international purchase of tangibles as well as on conclusion of international purchase contracts (CISG) for tangibles herewith are explicitly excluded.
- 11.3. Within the scope of section 38 Code of Civil Procedure, Weiden, Germany is the place of jurisdiction for all litigations arising from the contract, notwithstanding the right of HORN to file a suit at another place of jurisdiction which is legally admissible. This also applies to proceedings restricted to documentary evidence, summary bill-enforcement procedures and cheque proceedings.

12 Final provisions

- 12.1. Other additional agreements shall become integral part of the contract exclusively in case of explicit agreement between both HORN and customer.
- 12.2. Additional verbal agreements including contracting out the written form itself require the written form to become effective.
- 12.3. In case agreements of the contract concluded become partially or entirely ineffective, residual validity shall not be affected. The contracting parties shall engage in such case to replace the ineffective agreement by such agreement closest to the intended purpose of the contract. The same shall apply in case of gaps in the provisions requiring settlement.
- 12.4. HORN is entitled to assign claims arising from this contract and to order third parties to perform contractual obligations. HORN will give notice to customer upon request.
- 12.5. Any set-off of the customer's claims against HORN's receivables shall be excluded, unless these claims are undisputed and legally enforceable by execution.
- 12.6. Retention rights by the customer can only be claimed to the extent that his counterclaim is based in the same contract.
- 12.7. The supplier fully agrees with all provisions of the contract in their contents.