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# General Terms of Business

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## § 1 Scope

1. These General Contractual Terms and Conditions (hereinafter referred to as „Terms and Conditions“) are the sole basis for any and all contracts concluded by us (Hohenloher Spezial-Maschinenbau GmbH & Co KG) with our contractual partners (hereinafter also referred to as „Customers“) governing the deliveries (regardless of whether we manufacture the goods ourselves or purchase them from suppliers (§ 433 of the German Civil Code (BGB), § 650 BGB)) or services for which we provide quotations. The Terms and Conditions shall apply only to entrepreneurs as defined by Section 310 Paragraph 1 BGB.
2. Deviating conditions of the customer or of third parties are not acknowledged, even if we do not contradict their validity in an individual case. Even if we refer to a document that contains Terms and Conditions of Business of the customer or a third party or refer to such or carry out the delivery without reservation while being aware of the customer's terms and conditions, this shall not be construed as our consent to the validity of such Terms and Conditions of Business.
3. All agreements between us and the customer are conclusively governed by the written contractual documents and these Terms and Conditions. Verbal subsidiary agreements shall not be binding. For the content of individual agreements made with the customer in specific cases (including subsidiary agreements, additions and revisions), unless there is proof to the contrary, a written contract or our written confirmation shall be authoritative.
4. Relevant declarations and notifications of customer with regard to the contract (e.g. setting deadlines, notice of defects, withdrawal, reduction) shall be submitted in writing (e.g. letter, e-mail, fax) with reservation to statutory form requirements.

## § 2 Quotations and Conclusion of the Contract

1. Our quotes are non-binding and subject to change unless otherwise designated. We are entitled to accept orders or contracts of the customer that apply as a binding contractual quotation within fourteen days after receipt unless the quotation does not expressly specify otherwise. The acceptance can be accepted either in writing (e.g. by an order confirmation) or conclusively (e.g. by accepting the goods, beginning the execution of the commissioned services, etc.); to this extent, the customer agrees that it will not receive a declaration of acceptance.
2. Information we provide about the Object of the Agreement (e.g. weights, dimensions, utility values, load capacity, tolerances and technical data) and illustrations of the same (e.g. drawings, Figures) shall be only approximately authoritative insofar as they do not require exact compliance to be usable for the contractually agreed purpose. These are descriptions or indications of the delivery or service, not guaranteed characteristics. Deviations that are customary in the trade and deviations which arise due to legal regulations or which represent technical improvements, as well as the replacement of components by equivalent parts, shall be permitted, provided that they do not impede the applicability to the contractually agreed purpose.
3. We shall retain ownership of and copyrights for drawings, figures, calculations, brochures, catalogues, models, tools and other documents and aids, as well as those rights to documents designated as „confidential“. Any transfer, provision of access, release as well as use or reproduction by the customer or a third party requires our explicit prior consent.

## § 3 Prices and Payment

1. Prices shall apply to the scope of services or delivery listed in the order confirmations. Additional or special services shall be charged separately. Prices are in euros, ex works and are in addition to packaging and shipping if necessary, value-added tax in the amount applicable at the time of invoicing, customs duty for export deliveries as well as fees and other official charges.
2. If not otherwise specified in the order confirmation, the purchase price shall become due without deduction within 7 days from the issuing of the invoice and the transfer of risk. We are nonetheless authorized to perform a delivery or service, in whole or in part, only against advance payment at any time, even in the course of ongoing business relationships. The corresponding reservation shall be stated at the latest with the order confirmation. The deduction of a cash discount requires a separate written agreement. The date of payment shall be decided by payment receipt. Payment by cheque shall be excluded, provided that this has not been otherwise agreed upon separately in individual cases. Legal regulations shall apply to the consequences of payment default.
3. Any offset with counter-claims by the customer or the retention of payments due to such claims shall only be permitted if these counter-claims are undisputed or have been legally established; in addition, when exercising the right of retention, the counter-claim must be based on this same contractual relationship.



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4. If our payment claim is identified to be at risk due to the customer's inability to pay after the conclusion of the contract (e.g. through a motion to file insolvency proceedings), we shall then be entitled to the denial of service and to rescission from the contract in accordance with the legal regulations, after setting a deadline, if appropriate. For contracts concerning the production of custom items (single-unit production), we have the right to declare this rescission immediately; legal regulations about the dispensability of setting a deadline shall remain unaffected.
5. At the customer's request, if possible, we shall provide information about the expected costs for performing the services / deliveries. Cost estimates are made without commitment on our part, pending any express statements to the contrary. We may invoice the costs of creating a cost estimate at the customer's request (labour expenditure, obtaining quotes, travel costs, etc.) to the customer separately according to the expense accrued; if possible, these costs shall be credited to the customer if a contractual relationship is subsequently established. If the delivery / service cannot actually be performed at the estimated costs, or if it becomes necessary to perform additional deliveries or services in the course of regular performance in order to fulfil the contractual purpose, we shall first get the consent of the customer for further performance if the expected additional costs exceed the value of the cost estimate by more than 15%. In this case, the customer shall be entitled to termination, wherein we shall be entitled to invoice the customer for the deliveries and services rendered before termination. Any further liability of the customer based on fault remains unaffected.

### § 4 Delivery, Delivery and Service Performance Period, Scope of Services

1. The periods and deadlines for deliveries or services are agreed upon individually or specified by us as part of order acceptance. In order for the period to begin, all technical questions from the customer must have been clarified, all documents, approvals and authorizations to be supplied by the customer must have been received in a timely manner, and compliance with the agreed payment conditions and other obligations on the part of the customer must have been observed.
2. If sales shipment has been agreed upon, the time of handover to the shipper, freight forwarder or other third party tasked with transport shall be taken into consideration regarding timeliness.
3. We shall not be held liable if delivery or service performance is impossible or in the event of delays, provided that these have been caused by force majeure or other events not foreseeable at the time of contract conclusion (e.g. any manner of operational malfunction, difficulties in material or energy procurement, transport delays, strikes, legal lockouts, shortage of labour, energy or raw materials, difficulties procuring necessary official approvals, governmental actions, or missing, incorrect or late delivery by suppliers, etc.), for which we are not responsible. We shall notify the customer of any such obstacles. If such events significantly complicate or make it impossible for us to perform the delivery or service and the obstruction is not just temporary in nature, we shall be entitled to rescission from the contract; any payments made by the customer shall be refunded immediately. In the case of temporary obstacles, the delivery or service performance periods shall be extended or shifted by the period of the obstruction, plus an appropriate start-up time. In the case of a retroactive contract extension by the customer, any performance period shall also be extended appropriately.
4. If, in cases per Sect. 2, the contract is not concluded, the service object is only to be restored to its original state upon customer request, provided that this is possible; the customer shall repay the expenses required for doing so.
5. We are authorised to perform partial deliveries and partial services if
  - a) the partial delivery or partial service is usable for the customer as part of the intended contractual purpose,
  - b) the delivery of the remaining ordered goods or the remaining service is guaranteed, and
  - c) significant additional effort or costs do not result for the customer because of this (unless we have agreed to assume these costs).
6. Whether a default of delivery or service has occurred is determined by law. However, in all cases, a reminder by the customer shall be required. If we enter into default with a delivery or service, or if a delivery or service is impossible for us for any reason, our liability for compensation for damages is limited in accordance with § 6 of these Terms and Conditions.
7. We are entitled to conclude subcontracts and to perform test drives as well as drives for transportation purposes.

### § 5 Place of Fulfilment, Shipping, Packaging, Transfer of Risk, Acceptance, Delayed Receipt

1. Deliveries take place ex works. This refers to the sale of new machines from Wolfegg. The place of fulfilment of all obligations arising from the contractual relationship is our registered office, if not otherwise defined.
2. Goods are shipped to another location at the request and expense of the customer (sales shipment). The shipment method, selection of a transport company, packaging, etc. is at our professional discretion. This shall also apply if the customer requests the pickup or delivery of the contractual object or services to be rendered.
3. Risk passes to the customer at the latest with the handover of the delivery object to the customer or, in the case of sales shipment, with the handover to the shipper, freight forwarder or other third party intended to perform shipment; the beginning of the loading process shall be considered in this regard. This shall also apply if partial deliveries are made or if we have taken on more services (e.g. shipping or installation). In the case of a delay of shipment or handover for which the customer is responsible, risk shall be passed to the customer at the time when goods are ready for shipment and this has been indicated to the customer.
4. If acceptance is to take place, this is authoritative for the transfer of risk; acceptance shall be deemed to have taken place if
  - a) the service or delivery and installation, provided that we are also responsible for installation, has been completed,
  - b) we have notified the customer of this assumed acceptance and have requested the customer's acceptance,
  - c) ten business days have passed since the delivery, installation or service, or the customer has started using the purchased item (e.g. brought the delivered item into operation) and five business days have passed since delivery, installation or service in this case, and
  - d) the customer has refrained from acceptance within this period for a reason other than a defect indicated to us which makes the use of the item impossible or significantly impairs use.



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5. If the customer is in default of receipt or acceptance, or if the delivery is delayed for reasons for which the customer is responsible, we shall be entitled to demand compensation for arising storage costs in the amount of 0.25% of the invoice amount for the delivery objects to be stored for each passing week. Assertion and verification of other or lower storage costs as well as further legal claims remain reserved for both parties.

### § 6 Warranty, Defect Rights of the Customer, Limitation Period

1. Defect rights of the customer require that the customer has properly complied with its due obligations of inspection and notification of defects in accordance with §§ 377, 381 of the German Commercial Code; this applies accordingly to the performance of services. If a defect is identified during delivery, inspection or at any later time, the defect must be indicated to us immediately. In any event, defects which are readily visible shall be indicated within 5 working days after delivery and defects which are not readily visible during the inspection shall be indicated within the same period after discovery. If the customer does not perform the proper inspection and/or notice of defect, our liability for defects of which we have not been notified, or not notified in a timely or proper manner, shall be excluded in accordance with the legal regulations.
2. If the purchased item or rendered service is defective, the customer is entitled to rectification in the form of a correction of the defect or the delivery of a new, defect-free item, the selection of which is at our discretion. We are entitled to make the due rectification dependent on the completion of customer payment. The customer is nonetheless entitled to withhold a portion of payment appropriate to the defect. In the case of a defect correction or replacement, we are obligated to bear all expenses required for the purpose of rectification, particularly transport, travel, labour and material costs, provided that these do not increase due to the fact that the goods are located in a different location than the place of fulfilment, insofar as a defect is actually present. Otherwise, we can demand that the customer compensate us for the costs arising from an unwarranted rectification request (particularly testing and transport costs), unless the absence of a defect could not be identified by the customer. Rectification includes neither the removal of the defective item nor reinstallation, provided that this service was not originally our contractual responsibility.
3. Should rectification fail, the customer is authorized to demand rescission or reduction at its choice.
4. We shall accept liability in accordance with the statutory provisions, provided that the customer asserts its claims to reimbursement for damages based on intentional misconduct or gross negligence, including the intentional misconduct or gross negligence of our representatives or agents. If no wilful breach of contract is attributed to us, our liability for compensation shall be limited to foreseeable, typical damage.
5. We shall accept liability in accordance with statutory provisions, provided that we are culpably in breach of an essential contractual obligation; however, also in this case, liability for compensation is limited to foreseeable, typical damage.
6. Insofar as the customer is otherwise entitled to a claim to compensation for damage instead of performance due to a grossly negligent breach of duties, our liability shall be limited to compensation for foreseeable, typical damage.
7. Liability due to culpable injury to life, limb or health remains unaffected; this also applies to mandatory liability in accordance with product liability law.
8. If not otherwise specified above, liability shall be excluded.
9. The limitation period for defect claims is 12 months, calculated from the transfer of risk. This period does not apply to customer claims to reimbursement for damages due to injury to life, limb and health or due to intentional or negligent breaches of duties on our part or on the part of our agents, which expire in accordance with the respective legal regulations.
10. The limitation period in the case of delivery recourse in accordance with §§ 478, 479 BGB remains unaffected; this period is five years, calculated from the delivery of the defective item.

### § 7 Total Liability

1. Any further liability with regard to claims for compensation other than provided for in § 6 is excluded, regardless of the legal nature of the claim. This shall apply in particular to claims to reimbursement for damages based on fault upon the conclusion of the contract, due to other breaches of duties or due to claims in tort for compensation for property damage in accordance with § 823 BGB.
2. The limitation in accordance with Sect. 1 shall also apply if the customer demands compensation for wasted expenses in place of a claim to compensation for damage instead of performance.
3. Insofar as our liability for compensation is excluded or limited, this shall also apply with regard to the personal liability for compensation of our contractors, employees, representatives and agents.

### § 8 Retention of Title / Extended Lien

1. The following agreed retention of title serves as security for all of our claims, both current and future, against the customer which arise from the supply relationship that exists between the parties to the contract.
2. The goods we supply to the customer shall remain our property up until the complete payment of all secured claims. These goods, as well as any goods in accordance with the following provisions which replace these and which are subject to the retention of title, are hereinafter referred to as „conditional goods“.
3. The customer shall keep the conditional goods on our behalf free of charge. The customer is obligated to treat the goods with due care and to insure them sufficiently against fire, water, vandalism and theft at its own expense. The customer shall perform any necessary maintenance and inspection work in a timely manner and at its own expense.



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4. The customer shall be authorized to process and sell the conditional goods up until the event of enforcement (Paragraph 9) in the normal course of business. Pledging and assignment as security are not permitted.
5. If the conditional goods are processed by the customer, this processing takes place in our name and for our account as manufacturer. We shall immediately acquire ownership or, if processing takes place using material from multiple owners or the value of the processed item is higher than the value of the conditional goods, co-ownership (fractional ownership) of the newly created item in the proportion of the value of the conditional goods to the value of the newly created item. In the event that any such acquisition of ownership by us is not to occur, the customer hereby transfers its future ownership or co-ownership, in the proportion named above, of the newly acquired item to us for security.
6. If the conditional goods are inseparably mixed with other objects that do not belong to us or combined into a single item, we shall then acquire co-ownership of the new item in the proportion in accordance with Par. 5 Paragraph 1. If items are combined or mixed in such a way that the customer's item can be viewed as the principal object, it shall be agreed that the customer transfers proportional co-ownership to us. The customer thus keeps the sole or co-property that arises on our behalf.
7. In the event of the resale of the conditional goods, the customer hereby relinquishes any claims against the buyer resulting from this to us by way of security. In the case of our co-ownership of the conditional goods, assignment shall take place proportionally in accordance with the share of co-ownership. The same shall apply to other claims that replace the conditional goods or which otherwise arise with regard to the conditional goods, such as insurance claims or claims due to unlawful acts in case of loss or destruction. The customer remains revocably authorized to collect the transferred claim; our authorisation to collect the claim ourselves remains unaffected by this. We are nonetheless obligated to refrain from this, provided that the customer complies with its payment obligations from the collected proceeds, does not enter into default of payments and in particular does not submit a motion to file arrangement or insolvency proceedings, and payments have not ceased. If this is the case, we can demand that the customer inform us of the assigned claims and their obligors, provide all necessary information for collection, hand over the associated documents and notify the obligors (third parties) of the assignment.
8. If third parties gain access to the conditional goods, particularly through seizure, the customer shall immediately indicate the goods as our property and inform us of this to enable the enforcement of our property rights, particularly legal action in acc. with § 771 ZPO. If the third party is not able to compensate us for judicial or out-of-court costs arising from this, the customer shall be liable for these costs.
9. We shall release the conditional goods, as well as the items or claims which replace them, if their value exceeds the amount of the secured claims by more than 50%. The selection of objects to be released shall be at our discretion.
10. If we rescind the contract (event of enforcement) in the event that the customer is in breach of contract, particularly default of payment, we shall be entitled to demand the return of the conditional goods.
11. Based on our claims arising from the contract, we shall be entitled to a contractual lien on the contractual object or any objects in possession due to the contract (§ 647 BGB). The contractual right of lien can also be asserted based on claims from earlier rendered deliveries and services, provided that these are factually connected to the contractual object. The right of lien shall apply to other claims arising from the business relationship, provided that the claims are undisputed or an enforceable title exists and the object belongs to the customer.

#### § 9 Final Provisions

1. If the customer is a businessman, a legal entity of public law or a special estate under public law, or if the customer has no general place of jurisdiction in the Federal Republic of Germany, the court of jurisdiction shall be, at our discretion, Neu-Kupfer or the location of the customer for any disputes arising from the contractual relationship, including internationally. For any actions against us, however, Neu-Kupfer shall be the exclusive court of jurisdiction in these cases. Mandatory legal provisions about the exclusive court of jurisdiction remain unaffected by this provision.
2. The relationships between the contract parties are exclusively subject to the law of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).
3. Should the contract or these Terms and Conditions contain regulatory gaps, those legally effective provisions shall apply as agreed to fill these gaps which the parties to the contract would have decided in accordance with the economic goals of the contract and the intent of these Terms and Conditions if the parties had been aware of the regulatory gaps. The effectiveness of the remaining conditions shall not be affected by this.