



**General Terms and Conditions of Sale
of HBS Bolzenschweiss-Systeme GmbH & Co. KG
(hereinafter referred to as "HBS")**

Section 1: Purview

(1)

The present General Terms and Conditions of Sale shall apply to any contract on the supply of goods concluded between the Buyer/Orderer and HBS. To this extent the Terms and Conditions of Sale of HBS shall apply, exclusively. Differing Terms of Conditions of Sale shall not become part of a contract by accepting a respective offer. As a rule, side agreements and amendments shall require the written form, agreements by telex being accepted.

(2)

The goods of HBS are determined for the use of businessmen, exclusively.

The present General Terms and Conditions of Sale shall apply to businessmen, exclusively.

Section 2: Offer and Contract Conclusion

(1)

The offers of HBS shall be considered without engagement unless they are explicitly defined as binding by HBS. Any documents, brochures, drawings, dimensions, loading capacity values, weight declarations and samples shall be considered without engagement unless they are explicitly made part of the contract.



(2)

Any transactions, agreements and understandings shall become effective subject to HBS confirming the contract in writing or to both parties signing the contract, respectively.

(3)

HBS reserves its ownership rights, copyrights as well as any other proprietary rights with respect to any drawings, illustrations, calculations and any other documents. The Buyer / Orderer may disclose such rights subject to the prior written approval of HBS, exclusively, no matter whether the documents are identified as being confidential or not.

Section 3: Prices and Terms of Payment

(1)

Unless otherwise agreed in writing, the prices of HBS are calculated ex works, packaging, insurance and surcharges for commodity prices on the day of delivery, if any, excluded. The prices are quoted exclusive the value-added tax effective at the day of delivery. The list price of HBS effective at the day of delivery shall apply. The Buyer / Orderer assures the correctness of its sales tax identification number.

(2)

Payment of the invoices has to be effected without delay unless otherwise agreed in writing.

(3)

If the Buyer / Orderer fails to pay within the designated payment period, the statutory provisions shall apply as a rule. Anyway, the Buyer / Orderer has to indemnify HBS for any dunning costs incurred by it as well as any other loss resulting from the delay of payment.

HBS shall be entitled to charge a default interest in the amount of 8 % above the current basic interest rate. Moreover, subsequent to repeated reminder and written announcement



HBS shall have the right to resort to the right of retention with respect to any services not yet performed until the debts are fully paid.

(4)

The Buyer / Orderer shall only be entitled to set-off its claims, including complaints or counterclaims, if the counterclaims are rightfully ascertained, are acknowledged by HBS or are uncontested.

(5)

The minimum order value shall amount to € 100.00 plus the value-added tax applicable at a time. For any orders below the minimum order value a proportional handling fee in the amount of € 50.00 will be charged in addition to the cost of packaging and shipping.

Section 4: Shipping, Packaging and Passing of Risk

(1)

Loading and shipping shall be made without responsibility of HBS for the most cost-effective type of shipment on account and risk of the Buyer / Orderer. The risk shall pass to the Buyer / Orderer with delivery of the goods to the forwarder or freight carrier or with the start of loading in case of collection by the Buyer / Orderer. If delivery to the Buyer / Orderer is delayed for reasons the Buyer / Orderer is responsible for the risk shall already pass upon notifying the Buyer / Orderer that the goods are ready of shipment.

(2)

Shipment is made in one-way packs that are not taken back. The Buyer / Orderer has to see to the disposal of the packaging at its own cost.

(3)

In case that varying numbers of pieces are ordered the packaging unit next in size is delivered and charged.



Section 5: Terms of Delivery and Special Types of Contract

(1)

The period of delivery shall start with the receipt of the order confirmation by HBS, however not before a final agreement on the technical and commercial details has been reached. Information on times of delivery is without engagement unless they have been agreed as binding in written and explicit form.

(2)

Observance of the period of delivery shall depend on correct and punctual supply to HBS.

(3)

In case of a delay in delivery out of slight negligence the liability for damages shall be limited to the typical, foreseeable loss. Any additional claims for damages shall be subject to the delay being caused by intent or gross negligence. The Buyer / Orderer may withdraw from the contract subject to having set an appropriate new deadline.

(4)

HBS reserves the right to effect partial deliveries; such are individually due for payment when invoiced.

(5)

Unless otherwise agreed, blanket and call orders shall have a term of twelve months after receipt of the order confirmation; the Buyer / Orderer undertakes to take the whole quantity. If by the end of the twelfth month the quantity has not been taken completely, HBS shall be entitled to deliver and charge the remaining quantity four weeks after written announcement.



Section 6: Parts as per Drawing and Special Designs

(1)

With respect to articles made as per sample or drawing and requiring special manufacture production-related excess/short deliveries of up to 10 % have to be accepted as delivery according to contract. Exceptions need to be noted explicitly in the order and to be confirmed in writing.

(2)

With respect to manufacture according to drawings, samples or other directions of the customer HBS assumes no warranty or liability for the workability of the product and other defects on account of the instructions given by the customer unless HBS has acted in a grossly negligent or deliberate way.

(3)

The Buyer / Orderer assures that the production and delivery of the goods manufactured according to its instructions does not infringe any proprietary rights of third parties and assumes liability towards third parties to the extent possible; anyway, the Buyer / Orderer shall indemnify HBS from any liability in this respect.

(4)

The Buyer / Orderer shall indemnify HBS from any claims of third parties based on product liability and originating from damage caused by the goods unless such damage is due to the quality of the goods, exclusively, and was caused by HBS in a deliberate or grossly negligent way.



Section 7: Complaints, Warranty, Damages, Liability, and Limitation

(1)

HBS excludes any warranty, damages and liability for merely slight deviations in dimension and design in line with the technical and customary tolerances concerning the ordered goods.

(2)

As a rule, warranty claims on part of the Buyer shall be subject to the Buyer / Orderer having properly fulfilled its duty to examine and give notice of defects in the sense of section 377 German Commercial Code. In addition, there shall apply: obvious defects in relation to the extent and quality of the delivery and services have to be imparted directly to HBS in written form without delay, however not later than eight days after receipt of the goods. Return of rejected goods shall be subject to our prior written approval.

(3)

In case that a defect exists and HBS has received a due complaint HBS – at its discretion – will remedy the defect (rework) or will deliver replacement provided that the Buyer / Orderer gives evidence that the defect existed already at the time the risk passed. If two attempts of rectification or one replacement delivery have been carried out and the defect could not be remedied within a proper period for supplementary performance, the Buyer / Orderer may claim the legal remedies of cancellation, abatement or self-remedy. HBS shall not be obliged to supplementary performance if this entails unreasonably high costs.

(4)

Any defects caused by faulty operation, natural wear and tear, lack of maintenance, electric influences, interventions or change, or using, mixing with and processing, respectively, parts of other manufacturers without previously informing HBS accordingly and without the prior approval of HBS shall be excluded from the warranty provided that the defect appeared during mixing or using or is based on incompatibility, respectively. Anyway, any process warranties shall be excluded if process-relevant parts/components of a plant and the welding fasteners (e.g.pads/studs) on the condition and quality of which HBS has no influence do not come from HBS.



(5)

The liability of HBS – for whatever legal reasons - with respect to damages not occurred at the goods delivered as such shall be restricted to the following cases:

- intent or gross negligence, including organizational negligence or negligence of one of the executive employees of HBS;
- injury of life, limb or health by acting culpably, including organizational negligence or negligence of one of the executive employees of HBS;
- defects that were fraudulently concealed;
- defects at the goods to the extent liability applies under the product liability law.

(6)

The liability for damages, however, shall be restricted to the foreseeable, typically occurring damage unless HBS, its legal representatives or their agents have acted willfully.

(7)

Any exceeding liability on part of HBS shall be excluded.

(8)

Any warranty claims shall become statute-barred twelve months after the risk passed to the Buyer / Orderer. As for the rest, the statutory provisions with respect to limitation shall apply.



Section 8: Retention of Title

(1)

Until the complete settlement of any claims, including any balance claims from current accounts, HBS is entitled to now or in future in relation to the Buyer / Orderer HBS keeps title of ownership to the goods delivered (conditional commodity). In case of a breach of contract on part of the Buyer / Orderer, e.g. delay of payment, HBS shall have the right to take back the conditional commodity after having set a reasonable period. If HBS takes the conditional commodity back, this shall represent a cancellation of the contract. If HBS seizes the conditional commodity, this shall be a cancellation of the contract. HBS shall be entitled to exploit the conditional commodity after having taken it back. After deduction of an amount adequate to the costs of exploitation, the profit of the exploitation shall be set-off against the amounts the Buyer / Orderer owes to HBS.

(2)

To the extent that the value of all of the security rights HBS is entitled to exceeds the amount of all secured claims by more than 20 %, HBS will release an appropriate part of the security rights on the request of the Buyer / Orderer.

(3)

While the retention of title is in effect the Buyer / Orderer may not pledge the conditional commodity or assign it as security; the conditional commodity may be resold to the trade, exclusively, in the normal course of trade and subject to the condition that the reseller receives payment from its customer or makes the reservation that the ownership passes to the customer not before complete payment has been made.

(4)

By way of precaution, the Buyer / Orderer hereby assigns to HBS any claims together with any secondary rights from the resale of the conditional commodity without additional declarations being required later. If the conditional commodity is resold together with other objects without an individual price having been agreed upon for it, the Buyer / Orderer shall assign to HBS such part of the total price claim that corresponds to the price invoiced for the conditional commodity with prior rank to the remaining claim. HBS accepts this assignment.



(5)

If a justified interest is substantiated, the Buyer / Orderer has to give to HBS the information and to deliver to HBS the documents HBS needs to assert its claims against the customer.

(6)

Until further notice, the Buyer / Orderer shall be entitled to collect the claims from resale assigned to HBS. Good reason given, in particular delay of payment, suspension of payment, institution of insolvency proceedings or similar evidence suggesting an insolvency of the Buyer / Orderer, HBS shall have the right to revoke the collection right of the Buyer / Orderer. Moreover, with prior threat of disclosing the assignment by way of security or of exploiting the claims assigned, respectively, HBS may disclose the assignment by way of security, exploit the claims assigned and request the disclosure of the assignment by way of security by the Buyer / Orderer towards the customer under observance of an adequate period.

(7)

The Buyer / Orderer may process, reshape or connect the conditional commodity with other objects. Processing, reshaping or connecting shall be made on behalf of HBS. The Buyer / Orderer shall preserve the new object for HBS with a tradesman's due diligence. The processed, reshaped or connected object shall be considered conditional commodity.

(8)

When processing, reshaping or connecting the conditional commodity with other objects not belonging to HBS, HBS shall have a co-ownership right in the new object to the extent resulting from the proportion of the value of the processed, reshaped or connected conditional commodity to the value of the remaining conditional commodity at the time of processing, reshaping or connecting. If the conditional commodity delivered by HBS is regarded as the main object in the process of processing, reshaping or connecting, the resulting title of ownership to the new object shall pass to HBS with the coming into existence of the new object to the full extent. For the case that the Buyer / Orderer acquires the sole title of ownership to the new object, the parties agree that the Buyer / Orderer shall grant a co-ownership right to HBS with respect to the new object generated by processing, reshaping or connecting to the extent resulting from the proportion of the value of the



processed, reshaped or connected conditional commodity to the value of the remaining processed, reshaped or connected conditional commodity at the time of processing, reshaping or connecting.

(9)

By way of precaution, the Buyer / Orderer hereby assigns to HBS any claims together with any secondary rights from the resale of the new object without additional declarations being required later. The assignment, however, shall be restricted to the amount corresponding to the value of the processed, reshaped or connected conditional commodity invoiced by HBS. HBS accepts the assignment. The part of the claim assigned to HBS shall be satisfied with priority. Concerning the collection authorization and the preconditions for its revocation section 8 subsection 6 of the present General Terms and Conditions of Sale shall apply.

(10)

If the Buyer / Orderer connects the conditional commodity with real estates or movable objects, the Buyer / Orderer, by way of precaution and without additional declarations being required later, shall as well assign to HBS the claim the Buyer / Orderer is entitled to as a compensation for the connection together with any secondary rights in the amount of the proportion of the value of the connected conditional commodity to the remaining connected goods at the time of connecting. HNS accepts the assignment.

(11)

The Buyer / Orderer has to inform HBS in writing without delay on any levies of execution, seizures or other dispositions or interventions of third parties.



Section 9: Secrecy and Proprietary Rights

(1)

Both parties, the Buyer / Orderer as well as HBS, undertake to treat as strictly confidential any trade and business secrets, in particular documents, insight and information of any kind concerning the other party that are disclosed under the initiation and performance of an order and to observe secrecy towards third parties, in particular towards competitors, in this respect.

(2)

Any intellectual property, notably proprietary rights or inventions, resulting from the contract initiation or the cooperation between HBS and the Buyer / Orderer and, in particular, proprietary rights or inventions the fundamental idea of which originates from HBS, shall be applied for registration and used by HBS. To the extent that the origin of an idea is not obvious the parties agree that the proprietary rights may be used by both parties.

Section 10: Concluding Provisions

(1)

Place of performance and jurisdiction for any deliveries and payments as well as for any disputes between HBS and the Buyer / Orderer arising out of or in connection with the contracts concluded between HBS and the Buyer / Orderer shall be at the place of the registered office of HBS. HBS, however, shall also be entitled to sue the Buyer / Orderer at the place of its registered office.

(2)

The contractual relations between the parties shall be governed by the Law of the Federal Republic of Germany, exclusively, under exclusion of the UN Convention on Contracts for the International Sale of Goods.

(3)

In case that individual provisions of the Terms and Conditions of Sale prove ineffective, this shall not affect the effectiveness of the remaining provisions.