

General Terms and Conditions of Delivery of HEMA Schraubenfabrik und Befestigungstechnik GmbH

These terms and conditions of business only apply to business conducted between companies.

Section 1 Application

(1) All deliveries, services and offers from the Seller shall be based exclusively on these General Terms and Conditions of Delivery. They shall form part of all contracts that the Seller concludes with its contractual partners (hereinafter also referred to as "Customer(s)") governing the deliveries or services offered by the former. They shall also apply to all future deliveries, services or offers to the customer, even if no separate agreement stipulating their applicability is made.

(2) Terms and conditions of business of the Customer or third parties shall not apply, even if the Seller does not separately refuse their application in each individual case. Even if the Seller refers to any correspondence containing terms and conditions of business of the Customer or a third party or makes reference to such, this shall not constitute any agreement to the application of those terms and conditions of business.

Section 2 Offer and conclusion of contract

(1) All offers made by the Seller are without obligation and non-binding, unless they are expressly identified as binding or contain a specific acceptance deadline. Orders or contracts may be accepted by the Seller within 14 days of receipt.

(2) The legal relationships between the Seller and Customer shall be subject solely to the purchase contract concluded in writing, including these General Terms and Conditions of Delivery. This fully reflects all agreements made between the contractual partners regarding the subject of the contract. Verbal commitments made by the Seller prior to the conclusion of this Contract are not legally binding and verbal agreements between the contractual partners shall be superseded by the written Contract unless it is expressly stipulated that verbal agreements remain binding.

(3) Extensions and amendments to the arrangements made, including these General Terms and Conditions of Delivery, must be expressed in writing in order to be effective. With the exception of managing directors or authorised representatives, the employees of the Seller shall not be entitled to make verbal agreements deviating from the above. Transmission by telecommunication, in particular via fax or email, shall be sufficient to comply with the requirement for the written form, provided that a copy of the undersigned declaration is transferred.

(4) Information from the Seller regarding the subject of the delivery or service (e.g. weights, dimensions, practical values, resilience, tolerances and technical data) and our representations thereof (e.g. drawings and figures) are only approximations, unless usability for the contractually specified purpose requires exact conformity. They are not guaranteed characteristics, but descriptions or designations of the delivery or service. Customary deviations and deviations that arise due to legal requirements or constitute technical improvements are permitted, as are replacement components of the equivalent quality, provided that they do not impair usability for the contractually specified purpose.

(5) The Seller shall retain ownership of or copyright over all offers and quotes that it issues as well as drawings, figures, calculations, prospectuses, catalogues, models, tools and other documents and aids made available to the Customer. The Customer may not make these items or their contents available to third parties, nor disclose them or use or copy them itself or by means of third parties, without the consent of the Seller. At the Seller's request, the Customer must return all these items and destroy any copies made if it no longer requires them in its orderly course of business or if negotiations do not lead to the conclusion of a contract.

Section 3 Prices and payment

(1) The prices apply to the scope of service and delivery specified in the order confirmations. Additional or special services shall be charged separately. Prices shall be in euros ex-works plus packaging, statutory VAT, customs duty in the case of export shipments as well as fees and other public levies.

(2) In so far as the agreed prices are based on the Seller's list prices and the delivery is not scheduled to take place until more than four months after conclusion of contract, the Seller's list prices applicable upon delivery shall apply (less an agreed percentage or fixed discount in each case).

(3) Invoice amounts are payable without deduction within 30 days unless otherwise agreed in writing. Date of payment shall be deemed to be the date on which the Seller receives said payment. Payment by cheque shall be deemed received only once cashed. If the Customer fails to make a payment when due, interest at

9% p.a. shall be applied to the outstanding amounts from the due date; any rights to assert claims for higher interest rates or additional damages in the case of default remain unaffected.

(4) Offsetting with counterclaims of the Customer or withholding of payments due to such claims shall only be permitted if the counterclaims are undisputed and deemed to be legally effective.

(5) The Seller shall be entitled to only perform any outstanding deliveries or services against advance payment or security, if, following conclusion of the contract, it learns of circumstances that are of a nature to significantly reduce the creditworthiness of the Customer and, as a result of which, payment by the Customer of the pending claims of the Seller arising from the respective contractual relationship (including from other individual orders for which the same framework contract applies) is jeopardised.

Section 4 Supply and delivery period

(1) Delivery shall take place ex-works.

(2) Periods and deadlines for deliveries and services promised by the Seller shall always be deemed to be approximate, unless a fixed period or deadline is expressly confirmed or agreed. If shipment has been agreed, delivery periods and deadlines refer to the time of transfer to the forwarding agent, carrier or other third party commissioned to provide transportation.

(3) Irrespective of its rights arising as a result of default by the Customer, the Seller may request from the Customer an extension of the delivery and service periods or a postponement of the delivery and service deadlines by the period during which the Customer is unable to comply with its contractual obligations towards the Seller.

(4) The Seller shall bear no liability for the impossibility of delivery or delivery delays where these have been caused by force majeure or other events that were unforeseeable at the time at which the contract was concluded, and for which the Seller is not responsible (e.g. operational disruptions of any kind, difficulties in the procurement of materials or power, transport delays, strikes, lawful lockouts, lack of workforce, power or raw materials, difficulties in the procurement of necessary official approvals, official measures or missing, incorrect or late delivery by suppliers). In so far as such events make it significantly more difficult or impossible for the Seller to perform the delivery or service and the impediment is not only temporary, the Seller shall be entitled to withdraw from the Contract. In the case of temporary obstructions, the delivery or service periods shall be extended or the delivery and service deadlines postponed by the period of the impediment plus an appropriate restart period. If it is not reasonable for the Customer to accept the delivery or service due to the delay, it may withdraw from the contract by providing the Seller with an immediate written declaration.

(5) The Seller shall only be entitled to make partial deliveries if

- the partial delivery can be used by the Customer within the scope of the contractual intended use,
- delivery of the remaining ordered goods has been guaranteed and
- the Customer incurs no significant extra expense or additional costs as a result of this (unless the Seller declares itself willing to accept those costs).

(6) If the Seller defaults on a delivery or service or if it becomes impossible for it to perform a delivery or service, for whatever reason, the Seller's liability is limited to compensation for damages pursuant to Section 8 of these General Terms and Conditions of Delivery.

Section 5 Place of performance, shipment, packaging, transfer of risk, acceptance

(1) The place of performance for all obligations arising from the contractual relationship shall be Schörzingen, unless specified otherwise.

(2) The shipping method and packaging shall be at the discretion of the Seller. Packaging shall be charged separately unless otherwise agreed in the offer or the order confirmation. Packaging will be taken back if returned, in a good condition and with carriage paid, within 30 days.

(3) Risk shall transfer to the Customer no later than upon transfer of the delivery item (for which beginning of the loading process is the decisive factor) to the forwarding agent, carrier or third party otherwise specified to perform shipment. This shall also apply if partial deliveries are made or the Seller has undertaken other services (e.g. shipment or installation). If shipment or transfer is delayed as the result of a circumstance for which the Customer is responsible, risk shall transfer to the Customer on the day on which the delivery item is ready for shipment and the Seller has notified the Customer of this.

(4) The shipment shall only be insured by the Seller at the express wish of the Customer and at its own costs against theft, damage due to breakage, transport, fire and water or other insurable risks.

Section 6 Guarantee, material defects

(1) The guarantee period shall be one year from delivery or from acceptance, if acceptance is required.

(2) The items delivered must be carefully investigated immediately after delivery to the Customer or to the specified third party. In terms of apparent defects or other defects that would have been identifiable had an immediate, careful investigation taken place, the items shall be deemed as accepted by the Purchaser if the Seller does not receive a written notification of defects within seven working days of delivery. In terms of other defects, the delivery items shall be deemed as accepted by the Purchaser if the Seller does not receive the notification of defects within seven working days after the time at which the defect became apparent; however, if the defect could have been identified by the Customer at an earlier point in the course of normal use, this earlier point in time shall be deemed to be the start of the complaint period. At the request of the Seller, a delivery item for which a complaint has been sent is to be returned to the Seller, carriage paid. In the case of a justified notification of complaint, the Seller shall pay the costs for the cheapest dispatch route; this shall not apply if the costs increase because the delivery item is at a different location from that of intended use.

(3) In the case of material defects in the delivered items, the Seller shall be entitled and obliged, in the first instance, to perform either rectification or replacement delivery, as it sees fit; this choice must be made within an appropriate period. In the event that this fails, i.e. rectification or replacement delivery is impossible, unreasonable, rejected or unreasonably delayed, the Customer may withdraw from the Contract or reduce the purchase price appropriately.

(4) If the Seller is responsible for a defect, the Customer may demand compensation pursuant to the conditions specified in Section 8.

(5) In the event of defective parts from other manufacturers, which the Seller cannot rectify for licensing or factual reasons, the Seller may choose either to assert its claims under the guarantee against the manufacturer and supplier for the account of the Customer or assign those claims to the Customer. Claims under the guarantee against the Seller shall only exist in the case of defects of that kind under the other conditions and pursuant to these General Terms and Conditions of Delivery if enforcement of the aforementioned claim against the manufacturer and supplier was unsuccessful or has no chance of success, for example due to insolvency. For the duration of the dispute, the limitation period for the guarantee claims in question asserted by the Customer against the Seller shall be suspended.

(6) The guarantee shall cease to apply if the Customer amends the delivery item or has the item amended by third parties without the Seller's consent and this makes defect rectification impossible or unreasonably difficult. In any case, the Customer shall bear the additional costs of defect rectification arising from the amendment.

(7) A delivery of used items agreed with the Customer in individual cases may take place; however, in this case, no guarantee shall be given for material defects.

Section 7 Goods protected under German trademark law

If goods that are protected under German trademark law are delivered, the Purchaser shall only be entitled to remove the marks affixed on the goods or packaging and sell the goods on under a different brand if we have given our written consent to this.

Section 8 Liability for damages due to fault

(1) The Seller's liability for damages, for whatever legal reason, in particular due to impossibility, default, defective or incorrect delivery, breach of contract, breach of obligations during contractual negotiations and unlawful action shall, in so far as this involves fault, be limited in accordance with this Section 8.

(2) The Seller shall bear no liability in cases of ordinary negligence on the part of its governing bodies, legal representatives, employees or other vicarious agents, unless said negligence involves a breach of obligations that are fundamental to the Contract. The following are obligations that are fundamental to the Contract: the obligation to provide timely delivery and installation of the delivery item, the obligation to ensure that the delivery item is free of defects that impair its functionality or usability to more than merely an insignificant extent, as well as obligations to provide advice, protection and due care so as to allow the Customer to make use of the delivery item as stipulated in the Contract or for the purpose of protecting the life and limb of the Customer's staff or of protecting the Customer's property against significant damage.

(3) In so far as the Seller bears liability for damages pursuant to Section 8 (2), that liability shall be limited to damages that the Seller foresaw as possible consequences of a breach of contract upon conclusion of contract or that the Seller should have foreseen when exercising customary care. Furthermore, indirect

damage and consequential damage caused by defects of the delivery item shall only be eligible for compensation in so far as that damage is typically to be expected from use of the delivery item as intended.

(4) In the case of liability for ordinary negligence, the Seller's obligation to provide compensation for material damage and any further financial losses resulting therefrom shall be limited to EUR 5,000,000.00 per case of damage (in accordance with the current coverage provided by its product liability insurance or liability insurance), even where said negligence involves a breach of obligations fundamental to the Contract.

(5) The foregoing exclusions and limitations of liability shall apply to the same extent in favour of the governing bodies, legal representatives, employees and other vicarious agents of the Seller.

(6) In so far as the Seller provides technical information or acts in an advisory capacity and that information or advice is not part of the contractually agreed scope of service to be provided by the Seller, this shall take place free of charge and with the exclusion of all liability.

(7) The limitations given in this Section 8 shall not apply in the case of liability on the part of the Seller due to intentional behaviour, in the case of guaranteed characteristics, loss of life, physical injury or damage to health or as stipulated in the German Product Liability Act.

Section 9 Retention of title

(1) The retention of title agreed below shall serve to secure any current or future claims of the Seller against the Purchaser arising from the delivery relationship existing between the contractual partners (including balance claims arising from a current account relationship limited to this delivery relationship).

(2) The goods delivered by the Seller to the Purchaser shall remain the property of the Seller until full payment of all secured claims. The goods as well as any goods superseding the original goods pursuant to the following provisions and covered by the retention of title shall hereinafter be referred to as "reserved goods".

(3) The Purchaser shall store the reserved goods for the Seller free of charge.

(4) The Purchaser shall be entitled to process and sell the reserved goods through proper business transactions until the retention of title is enforced (Paragraph 9). Pledging and assignment as security are not permitted.

(5) If the reserved goods are processed by the Purchaser, it is agreed that the processing takes place on behalf of and for the account of the Seller as the manufacturer and the Seller shall immediately acquire ownership or, if the processing involves materials from several owners or the value of the processed item is higher than the value of the reserved goods, co-ownership (fractional ownership) of the newly created item in the ratio of the value of the reserved goods to the value of the newly created item. In the event that no such acquisition of ownership by the Seller takes place, the Purchaser hereby transfers its future ownership or, in the case of application of the above ratio, co-ownership of the newly created item to the Seller as security. If the reserved goods are connected or inseparably mixed with other items to create one unified item and one of those other items is deemed to be the main item, the Seller shall, in so far as the main item belongs to the Seller, confer proportional co-ownership of the unified item to the Purchaser in the ratio specified in Sentence 1.

(6) In the event that reserved goods are sold on, the Purchaser hereby assigns the claim resulting herefrom against the Acquirer of the reserved goods to the Seller (in the event that the Seller has co-ownership of the reserved goods, it shall assign proportional co-ownership). The same shall apply for any other claims taking the place of the reserved goods or otherwise arising with regard to the reserved goods, for example insurance claims or claims arising from unlawful action in the event of loss or destruction. The Seller confers upon the Purchaser a revocable authorisation to collect the claims assigned to the Seller in its own name. The Seller may only revoke this collection authorisation in the event of enforcement of the retention of title.

(7) In the event that third parties gain access to the reserved goods, in particular as a result of seizure, the Purchaser shall immediately inform those third parties of the Seller's ownership and shall notify the Seller of this in order to allow it to enforce its proprietary rights. If the third party is not in a position to reimburse the Seller for the judicial or extrajudicial costs arising in connection with the situation, the Purchaser shall bear the liability for this towards the Seller.

(8) The Seller shall release the reserved goods and any superseding items or claims provided that their value does not exceed the sum of the secured claims by more than 50%. The Seller may then decide which items to release.

(9) If the Seller withdraws from the Contract in the event of a contractual breach by the Purchaser and in particular default of payment (case of enforcement of retention of title), the Seller shall be entitled to demand the return of the reserved goods.

Section 10 Final provisions

(1) If the Customer is a businessman, a legal entity under public law or a special fund under public law or has no general place of jurisdiction in the Federal Republic of Germany, the place of jurisdiction for all disputes arising from the business relationship between the Seller and the Customer shall be Schörzingen. Mandatory statutory provisions regarding exclusive places of jurisdiction remain unaffected by this regulation.

(2) The relationships between the Seller and the Customer shall be subject exclusively to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) does not apply.

(3) Insofar as the Contract or these General Terms and Conditions of Delivery contain loopholes, the legally effective regulations that the contractual partners would have agreed, had they been aware of the loopholes, in accordance with the economic objectives of the Contract and the purpose of these General Terms and Conditions of Delivery, shall apply to close those loopholes.

Note:

The Customer acknowledges that the Seller stores data arising from the contractual relationship pursuant to Section 28 of the German Federal Data Protection Act for the purposes of data processing and reserves the right to transfer the data to third parties (e.g. insurance companies) where required for fulfilment of the contract.