

General Sales and Delivery Conditions

1. Scope of application

- 1.1 The following terms and conditions apply to all deliveries, unless otherwise agreed in writing. Deviating agreements apply solely to an individual contract and not to future contracts, unless otherwise agreed in writing.
- 1.2 The General Terms and Conditions apply to merchants only if the contract belongs to a commercial enterprise, as well as to legal persons under public law and special funds under public law according to § 310 I 1 *BGB* [German Civil Code].
- 1.3 The General Delivery Conditions of HZDR Innovation GmbH (hereinafter: HZDRI) apply exclusively. The conditions of the contractual partner are not valid, even if HZDRI does not expressly object to them. The same applies even if HZDRI provides the performance owed while aware of conflicting delivery conditions of the contractual partner.

2. Offers, conclusion of contracts and scope of performance

- 2.1 The scope of the contractually owed performance depends exclusively on the order confirmation of HZDRI. Changes of the agreed scope of performance are to be determined in writing.
- 2.2 The order of the contractual partner is a binding offer.
- 2.3 HZDRI is entitled to partial performance and partial provision of services at any time, provided this is reasonable with regard to the contractual partner.
- 2.4 HZDRI reserves the right to change the construction, basic material selection, specification and construction type even after sending an order confirmation, provided such changes are reasonable for the contractual partner with regard to the contractual performance.
- 2.5 Dates, terms, dimensions, weights, results of simulations, drawings etc. have a non-binding character, unless expressly confirmed in writing.
- 2.6 Information in catalogues, advertising statements, statements in other publications and statements of third parties do in no way constitute grounds for contractual claims for performance, warranty claims or damage claims toward HZDRI.
- 2.7 Covenants and warrants on the quality of goods delivered and services provided are granted only by express written agreement.

3. Delivery terms

- 3.1 Delivery or performance terms are binding only if agreed in writing. They are reasonably extended if the contractual partner delays or fails to provide the required or agreed cooperation. Changes of the goods/products to be delivered and requested

by the contractual partner also lead to an extended delivery term.

- 3.2 The same applies to steps in case of labour conflicts, in particular strike and lockout as well as in case of unforeseen prejudicial events outside the control of HZDRI, such as delays of delivery on the side of a supplier, traffic blocks and operative defects, shortages in basic materials and energy or other cases of Force Majeure (war, terrorist attacks, weather-related disasters).
- 3.3 If HZDRI fails to meet the deadline stated for the performance, the contractual partner may rescind the contract after granting HZDRI a reasonable grace period while taking 3.2 into account and only if HZDRI has failed to meet even this grace period.
- 3.4 If HZDRI is in default in delivery, the contractual partner is entitled to a flat default compensation to the amount of 0.5 percent of the delivery value, provided it can prove that it incurred a damage due to this default in delivery. However, the default compensation may not amount to more than 5 percent of the delivery value in total. Further claims for damage compensation and indemnification for expenses incurred by the contractual partner due to a default in delivery are excluded, provided the default of delivery is not due to a breach of a significant contractual duty or in other cases of wilful misconduct or gross negligence or with regard to a mandatory statutory liability. Duties significant for the transaction are such duties whose compliance is essential for the performance of the contract and can be expected by the contractual partner.

4. Prices and payment conditions

- 4.1 The respective pricing information is submitted in EURO and is ex works and exclusive of packaging, freight, transport, insurance, custom fees, assembly and other shipping and transport costs as well as applicable legal VAT. Banking fees are borne to the full amount by the contractual partner.
- 4.2 To the extent that HZDRI is not responsible for defaults in delivery, it reserves the right to increase the prices accordingly after 3 months following the conclusion of the contract, if increases of the price factors occur after the conclusion of the contract, in particular due to collective agreements or basic material price increases. These are proven by HZDRI at the request of the contractual partner.
- 4.3 Legal applicable VAT at the time the performance is provided is to be added to the agreed prices and shown separately on the invoice.
- 4.4 The payments are to be made to the bank account of HZDRI as detailed in the invoice without deduction within 14 days after the receipt of the invoice while stating the invoice number and the intended use.

- 4.5 If change requests from the client are processed, the additional costs arising from this are invoiced additionally to the client.
- 4.6 In case of a payment default on the side of the contractual partner, HZDRI is entitled to charge default interest to the amount of 8 percent above the respective applicable base interest rate of the European Central Bank. The contractual parties are free to prove a lower or higher interest damage.
- 4.7 If after the acceptance of an order HZDRI becomes aware of circumstances that give reason to doubt the liquidity of the contractual partner, HZDRI is entitled to demand full payment or corresponding security before the delivery or to rescind the contract following a grace period that has not been met. Next to a payment default that as occurred already, a proof for a major degradation of assets shall be in particular a corresponding information from a bank, credit agency or of a company entertaining business relations with the contractual partner. If delivery has already taken place, the invoice amounts become due and payable immediately, regardless of any payment conditions agreed.

5. Setting off and retention

- 5.1 The contractual partner has the right to set off only if the claim to setting off is undisputed and has been confirmed to be legally valid.
- 5.2 The contractual partner is entitled to exercise its right of retention only to the extent as its counterclaim relies on the same contractual relationship.

6. Passing of risk

- 6.1 The risk of a loss by accident or a degradation by accident of a delivery shall pass to the contractual partner as follows:
 - for the case of a delivery with transfer to a forwarding agent or freight carrier: no later than at the time of leaving the distributing warehouse. At the request and cost of the contractual partner, deliveries of HZDRI are insured against the usual transport risks;
 - for the case of a delivery with installation and assembly: on the day of the handover to the contractual partner.
- 6.2 If the delivery, the start or execution of the installation or assembly or the handover is delayed for reasons for which the contractual partner is responsible, or if the contractual partner delays the acceptance for other reasons, the risk shall pass to the contractual partner on the day the readiness for handover or delivery is indicated.

7. Retention of title

- 7.1 HZDRI retains the title in the goods delivered until they have been fully paid. The assertion of the retention does not require a rescission by HZDRI.
- 7.2 The contractual partner is obliged to handle the goods delivered carefully and to have them sufficiently insured against damage for the duration of the retention of title at the request of

HZDRI.

- 7.3 The contractual partner is not authorised to transfer or pledge the goods as security; it may however sell the retained goods in the ordinary course of business. Even as of now, it assigns to HZDRI the claims toward its business partners arising from such a sale. The contractual partner will submit the required warrants in due time.
- 7.4 In case of distrains or other interventions from third parties, the contractual partner is to inform HZDRI immediately in writing, so as to enable HZDRI to assert its rights according to § 771 ZPO [German Civil Code of Procedure]. To the extent that the third party is not able to compensate HZDRI for the court and out-of-court expenses of a legal action according to § 771 ZPO, the contractual partner is liable for the losses incurred by HZDRI.
- 7.5 If the delivered goods of HZDRI are processed, modified or incorporated with other objects which are not property of HZDRI, HZDRI shall acquire the co-ownership of the new good according to the value of the delivered good in relation to the newly fabricated good.

8. Claims for defects

- 8.1 HZDRI provides the performance in accordance with the state of technology applicable at the time of the order as well as with the applicable legal provisions and in consideration of the care customary in the trade.
- 8.2 The contractual partner undertakes to inspect the goods immediately after receiving them if this is reasonable in the usual course of business. Any defects found are to be indicated to HZDRI in writing without delay. If the contractual partner fails to indicate a defect, the goods are considered accepted, unless the defect could not have been found in the inspection. For the rest, the Articles 377 ff. *HGB* [German Commercial Code] apply.
- 8.3 If a defect occurs whose source was already known at the time of the passing of risk, HZDRI may choose to either rectify it or redeliver (supplementary performance). Parts replaced become/remain property of HZDRI. If a supplementary performance is to take place, HZDRI is to be granted a reasonable period to carry out the supplementary performance. It is only in urgent cases of the operational safety being at risk or for the prevention of a disproportionate damage for the contractual partner that the contractual partner is entitled to have the defect rectified by itself or by third parties and to demand compensation for the necessary expenses incurred. In this regard, the expenses are to be kept to a minimum. If the supplementary performance fails, the contractual partner is entitled at its own discretion to demand a reduction of the remuneration or a rescission of the contract.
- 8.4 HZDRI may decline supplementary performance if this should require an effort that is largely disproportionate in relation to the performance

interest of the contractual partner. In such a case, the contractual partner may demand a reduction of the remuneration or rescind the contract.

- 8.5 Claims for defects cannot be asserted if the deviation from the agreed quality is merely insignificant, if the usability is affected merely to an insignificant degree, in case of natural wear and tear or in case of damages occurring after the passing of risk due to improper or negligent use, excessive loads, improper equipment or due to special external factors that were not included in the contract.
- 8.6 If the contractual partner or third parties carry out modifications or repair works, this also precludes any claims for defects. 8.7 Claims based on defects expire after 12 months unless differing legal terms are stipulated (such as by §§ 438, 479, 634a I BGB).

9. Liability

- 9.1 HZDRI is liable toward the contractual partner, pursuant to the Product Liability Act, for damages to life, body and health, in other cases of wilful conduct, gross negligence or warranties granted. Furthermore, liability is accepted for cases of simple negligence if duties significant for the transaction were infringed. Duties significant for the transaction are such duties as defined in 3.4 of these present conditions. Damage claims based on the infringement of essential contractual duties are limited to damages that are typical for the type of contract and can be foreseen. Insofar, the damage claims expire after 12 months.
- 9.2 Furthermore and beyond this, HZDRI does not accept liability unless legally obliged to do so. In particular, HZDRI is not liable for damages that did not occur at the delivered good itself, such as lost profit and other financial losses of the contractual partner, including consequential damage.
- 9.3 The exclusion of liability applies also to vicarious agents and servants as well as employees of HZDRI and third parties commissioned by HZDRI.
- 9.4 The contractual partner informs HZDRI of all circumstances known to it which may be relevant for the existence of a risk of damage as well as the extent of the potential damage.

10. Confidentiality, protected construction

- 10.1 The contractual partners undertake not to utilise, use or disclose to third parties any commercial, technical or other information and knowledge disclosed by the respective other contractual partner or otherwise emerging in connection with the preparation and processing of orders without the prior written approval of the other contractual partner.
- 10.2 This does not apply to such information and knowledge as is proven to:
- have been known to the contractual partner before it was received,
 - be known to the general public,
 - have been made available to the general public after it was received by the contractual partner, without the contractual partner being responsible

for this, or

- have been lawfully disclosed to the contractual partner by a third party.

If the duties of this agreement are breached, the breaching contractual party has the burden of proof for this matter of facts.

- 10.3 The duties from this present provision continue to apply for both contractual partners for a term of 3 years following the execution of the contract.
- 10.4 The client acknowledges that the HZDRI or third parties commissioned by HZDRI need to be able to hold scientific lectures and release scientific publications, and will not refuse a required approval without reason.
- 10.5 Drawings, designs and other documents provided by HZDRI remain property of HZDRI unless otherwise agreed in writing. They may not be used for purposes other than those agreed, copied or disclosed to third parties and must be handed back to HZDRI immediately following the completion or termination of the contract or at the request of HZDRI.

11. Data security

The contractual partners will process or use person-related data of the respective other contractual partner only for contractually agreed purposes and in compliance with the legal provisions.

12. Final provisions

- 12.1 The place of performance for the delivery is the manufacturing factory or the distribution warehouse of HZDRI.
- 12.2 The inclusion and interpretation of these General Delivery Conditions are governed exclusively by the laws of the Federal Republic of Germany, as are the conclusion and interpretation of legal transactions with the contractual partner, disregarding any conflict of laws rules. The UN Convention on Contracts for the International Sale of Goods (CISG) and other conventions on the international sale of goods are excluded.
- 12.3 The place of jurisdiction is Dresden for all disputes arising from this agreement. However, HZDRI is entitled to make a claim on the contractual partner at any other legal place of jurisdiction.