
Article 1 General – scope of application

Business relations and dealings with our customers, including information and advice services, are subject exclusively to the following terms and conditions. Where they are implanted in our business with the customer, they shall also apply for all further business relations between us and that customer, unless otherwise regulated in writing. Terms and conditions of the customer shall apply only and insofar as we have expressly recognised them in writing. Our silence in relation to any deviating terms and conditions shall in particular not be considered our acceptance or consent, including in relation to future orders. Our terms and conditions shall also apply in place of any terms of purchase of the customer even if, according to the customer's terms, acceptance of the order is considered an unconditional recognition of these terms of purchase. By accepting our confirmation of order or our delivery, the customer expressly recognises its waiver of a legal defence based on its differing terms of purchase.

Article 2 Information, advice, characteristics of the goods

- (1) Information and advice regarding our products is provided exclusively on the basis of the experience we have gathered hitherto. The values indicated in this regard are to be considered non-binding average values. All information regarding our products, in particular the illustrations, drawings, dimensions and performance specifications, contained in our offers and publications and other technical specifications are to be considered approximate average values.
- (2) A reference to standards, similar technical regulations and technical specifications, descriptions and illustrations of the delivered item in offers and brochures and our advertising shall represent information on the characteristics of our goods only if we have expressly declared these features as being characteristics of the goods; otherwise they are to be considered non-binding general performance descriptions.
- (3) Specific characteristics of our goods shall in principle be considered guaranteed by us only when we have expressly confirmed them in writing. We shall be considered to have undertaken a guarantee only when we have indicated a characteristic in writing as being guaranteed.

Article 3 Samples; models

The characteristics of samples and models we have prepared shall constitute a part of the contract only when this has been expressly agreed in writing. The customer is not entitled to utilise such samples and models or provide them to a third party.

Article 4 Conclusion of contract, scope of delivery, acceptance

- (1) Our offers are subject to change and non-binding unless otherwise indicated. They represent requests for orders. We are bound by an order and a contract shall be considered concluded – including in the context of regular business – only when we have confirmed it in writing or when we commence execution of the order. The content of a delivery contract shall be based on our confirmation of order or a delivery call-off that we have recognised. In the case of immediate delivery, our invoice can also take the place of confirmation.
- (2) All agreement, ancillary arrangements, undertakings and contract amendments must be in writing. This also applies to any waiver of this requirement for the written form.
- (3) Assumption of a procurement risk does not lie solely in our obligation to deliver an object which is defined only by its type.
- (4) In the event of call orders or acceptance delays caused by the customer, we shall be entitled to procure the material for the complete order and manufacture the entire product immediately. After the order is placed, no modification request from the customer can therefore be considered unless this was expressly agreed in advance.
- (5) In the event of partial or total cancellation of quantities already indicated in call orders and/or orders, the customer shall undertake in relation to parts that we have manufactured to accept the ordered product and any necessary semi-finished

products for a period of four weeks from the date of partial or total cancellation (acceptance obligation for finished parts is four weeks). In relation to bought-in parts this acceptance obligation period shall be twelve weeks (acceptance obligation for bought-in parts 12 weeks).

- (6) The customer must notify us in good time and in writing before the order is concluded of any special requirements regarding goods to be delivered.
- (7) If our offer or our confirmation of order is based on technical specifications provided by the orderer (illustrations, drawings or dimensions), our offer shall then be considered binding only if the order can be executed in accordance with the technical specifications of the orderer. If it emerges after the contract has been concluded that the order cannot be executed in accordance with the technical specifications of the orderer, we shall be entitled to withdraw from the contract, if and insofar as the orderer is not prepared to accept the alternative technical solution we propose and to accept any actual additional costs. If our offer or our confirmation of order is based on the orderer's logistics specifications, the first and second sentences shall apply accordingly.
- (8) We retain rights of title and copyrights to illustrations, drawings, calculations and other documents relating to the order. This also applies to written documents that are indicated as being "confidential". Our express consent in writing is necessary before the customer can disclose such materials to any third party.
- (9) We are entitled to make short or excess deliveries in terms of units or weight of up to 5% compared to the order volume.
- (10) If acceptance of the goods or the delivery is delayed for a reason for which the customer is responsible, we shall be entitled, after a 14-day extension period has been set and elapsed, to demand immediate payment of the purchase price at our discretion or to withdraw from the contract or refuse performance and to demand damage compensation instead of the full performance. The time limit must be given in writing, and we shall not be required to refer again to our rights under this clause. In the event of our claiming compensation for damages, the claim shall amount to at least 20% of the net delivery price. This shall not affect any right on the part of either party to prove a different amount of damages or that damages were not incurred.

Article 5 Performance, time of performance, default

- (1) Binding performance dates and time limits must be agreed with us expressly and in writing. We shall make every endeavour to meet performance dates and time limits in the case of performance dates and time limits that are not binding or that are only approximate (approx., around etc.).
- (2) Performance time limits commence with the customer's receipt of our confirmation of order or with our recognition of the call order, but not before all details about the performance of the order are clarified and all other requirements to be fulfilled by the customer have been met; the same shall apply accordingly to performance dates. If the customer requests modifications after placing the order, a new time limit shall commence when we confirm acceptance of this modification.
- (3) Deliveries can be made before the delivery date has expired. The delivery date shall be considered the date on which our readiness to deliver has been indicated, otherwise the date the goods are despatched. We are also entitled to provide partial deliveries. Interest in our performance shall be considered elapsed in the absence of some other written agreement only if we fail to deliver essential parts or deliver with delay.
- (4) If we default in delivery, the customer must first set us a reasonable extension of time to perform the contract. If this additional period elapses in vain, the customer shall be entitled, subject to the relevant conditions being met, to assert the rights sections 280, 281, 284, 286, 323 BGB (German Civil Code). Claims for damage compensation due to breaches of obligations – irrespective of the reason – shall arise only subject to the provisions under Article 11. If we fail to provide a service on the date or within a period determined in the contract, the customer can only rescind the contract if it has bound its interest in the performance to the timeliness of performance in the contract and when we are in delay of delivery of significant part quantities.
- (5) We shall not be in default as long as the customer is in default in fulfilling its obligations towards us; this shall also include obligations under other contracts.

Article 6 Reservation of own delivery; force majeure and other obstructions

- (1) If we do not receive a deliveries or performance from our sub-suppliers for reasons for which we are not responsible, or do not receive a delivery or performance correctly or on time, or events of force majeure occur, we shall notify our customer in writing in due time. In such case, we shall be authorised to postpone the performance for the duration of the obstruction, or to withdraw in whole or in part from that part of the contract not yet fulfilled if we have met our foregoing duty to provide information and have not assumed a procurement risk. Events of force majeure are strikes, lock-outs, official intervention, power shortages and shortages of raw materials, transport bottlenecks through no fault of our own, company obstructions not due to us e.g. fire, water and damage to machinery and any other obstructions that considered objectively were not caused by our negligence.
- (2) If a performance date or time limit is agreed with binding force and the agreed performance date or the agreed time limit for performance is exceeded due to the events indicated under (1) above, the customer shall be authorised to withdraw from that part of the contract not yet fulfilled after a suitable subsequent period for performance has elapsed without result.

Article 7 Shipment and transfer of risk

- (1) Unless otherwise agreed in writing, we shall ship uninsured at the customer's risk and expense. We reserve the right to choose the route and means of transport. If the customer requests, we shall obtain transportation insurance coverage for the delivery; the customer shall bear the resulting expenses. This shall require a separate written request by the customer.
- (2) The risk of accidental loss or accidental deterioration shall pass to the customer when the goods to be delivered are handed over to the customer, forwarder, freight carrier or other firms entrusted with shipping the products and goods but at the latest when the goods leave our works, warehouse or branch.
- (3) If the delivery is delayed because we assert our right of retention due to the customer's default in payment in whole or in part or due to another reason for which the customer is responsible, the risk shall pass to the customer at the latest as of the date the goods are notified as ready for shipment.

Article 8 Notice of defects / warranty / breach of obligations

- (1) The customer must give us written notice of recognisable defects immediately but at the latest 12 days after performance - also with respect to a part of the service which the customer can use - of hidden defects immediately but at the latest within the warranty period under (6). If faults are recognisable on delivery, the transport operator must be notified accordingly and obliged to record the defects. Complaints of defects must include a detailed description of the defect. The customer shall have no guarantee claim if a complaints of defect is not filed in time. If defects in number and weight were already recognisable upon delivery according to the foregoing duties to inspect, the customer must file complaint with the transport operator upon receipt of the goods and have this complaint certified. The customer shall have no guarantee claim if a complaints is not filed in time.
- (2) The customer must give notice in writing of any other breach of duty, setting a reasonable time limit for remedy, before the customer asserts any other rights.
- (3) If a defect exists, this shall be eliminated at our option - except in the case of recourse due to delivery according to sections 478, 479 BGB - by rectification or replacement free of charge, whereby we are in principle entitled to two attempts. We shall eliminate any defects for which the customer itself is responsible, and incorrect complaints, on behalf of and at the expense of the customer.
- (4) In the case of defects, the customer's payments may be withheld only to an extent proportionate to the material defects which have occurred. If the notice of material defects is incorrect, we shall be entitled to request compensation from the customer for the expenses we incurred as a result.

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- (5) If the breach of obligation does not relate in an exceptional case to our work performance, the contract cannot be rescinded if our breach of duty is immaterial. Except in the case of liability for defects, the contract also cannot be rescinded if we are not responsible for the breach of duty.
 - (6) We shall provide a warranty for verifiable material, production or construction defects – unless expressly agreed otherwise, or there is a case of section 478 BGB (right of regress) – for a period of one year, calculated from the date statutory limitation begins.
 - (7) The foregoing limitation period shall also apply to competing claims in tort and to any claims from consequential damage caused by a defect.
 - (8) Further claims by the customer for or in connection with defects or consequential damage caused by a defect, for whatever reason, shall exist only subject to the provisions under Article 11 when these relate to damage claims resulting from a warranty which is intended to cover the customer against the risk of consequential damage caused by a defect. In this case too, however, we shall be liable only for typical and foreseeable damage.
 - (9) Our warranty and liability resulting therefrom shall be excluded if defects and damages connected therewith cannot be proven to be due to our faulty material, faulty construction or faulting production or faulty installation instructions. Warranty and liability shall be excluded in particular for the consequences of incorrect use (in particular with installation or assembly in line with the state of the art or installation or assembly contrary to assembly instructions) or natural wear on the products, excessive use or unsuitable supplies, as well as the consequences of physical, chemical or electrolytic influences that do not correspond to expected average standard influences. There shall be no complaints of defects allowed for insignificant deviations from agreed characteristics or usefulness of the goods.

There shall also be no complaints of defects allowed for non-reproducible software faults.

The above shall not prejudice our liability pursuant to (11).

- (10) Claims by the customer for expenses required to remedy defects, especially transport, route, work and material costs, shall be excluded if expenses increase because the delivery item is subsequently taken to a place other than the place of delivery or the customer's plant. This shall not apply in the case of recourse due to delivery according to sections 478, 479 BGB.

Any right of recourse the customer may have against us when the goods are resold shall only exist if the customer has not reached any agreements with its buyer which exceed statutory claims based on defects.

- (11) Any recognition of material defects must be in writing.

Article 9 Prices, terms of payment, objection of uncertainty

- (1) All prices are on principle quoted in Euro ex delivery works or warehouse and exclude packaging, freight and a surcharge for minor quantities, as well as value added tax to be borne by the customer at the legally applicable rate.
- (2) Performance that is not part of the agreed scope of performance shall be charged, unless otherwise agreed, on the basis of our respectively valid general price lists.
- (3) We are authorised to increase prices unilaterally and reasonably (section 315 BGB) where material procurement costs, wage and ancillary wage costs as well as energy costs and costs due to environmental charges are increased, if more than six months elapses between conclusion of the contract and delivery.
- (4) Our invoices are payable without deduction within 30 days of the invoice date. We are also entitled to request payment against delivery of goods. If cash discount was agreed, this is calculated from the net amount and shall only be admissible if the customer has met all other liabilities older than 30 days arising from the business relationship with us. Payments by bills of exchange rule out discounts.
- (5) The customer shall be in default of payment within 35 days of delivery without the need for a reminder.

- (6) Once in default, maturity interest of 8% above the respective base rate shall be charged. The date payment is received by us or credited to our account shall be deemed the payment date. We reserve the right to assert damage in excess of this. Furthermore, default in the fulfilment of one claim shall lead to all our other claims from the business relationship becoming due immediately and the end of all agreements on extension of payment obligations.
- (7) If payment terms are not met or circumstances known or recognisable that in our proper commercial judgement give rise to justified doubt about the customer's creditworthiness, also including such facts that existed when the contract was concluded but which were unknown to us or should have been known to us, we shall be authorised, notwithstanding further statutory rights in such cases, to cease further work on current orders or delivery and to request advance payments or the provision of appropriate securities for deliveries still outstanding and, after expiry of a reasonable extension of time to provide such securities in vain, to rescind the contract, irrespective of other statutory rights. The customer shall be obliged to reimburse us for all damages incurred by the non-performance of the contract.
- (8) If payments are allowed to be deferred and then paid at a later date than agreed, interest of 8 % above the base rate applied when the deferment agreement was concluded shall be owed for the period of deferment without requiring a notice of default.
- (9) The customer shall only have a right of retention or right of set off regarding those counter-claims that are not disputed or have been recognised by declaratory judgment unless the counter-claim relates to a breach of material contractual obligations by us. The customer may claim a right of retention only if its counterclaim is from the same contractual relationship.
- (10) We shall accept bills of exchange only in exceptional cases and on the basis of an express agreement and only on account of performance. We shall charge discount expenses from the due date of the invoice until the expiration date of the bill of exchange and bill expenses. The customer must bear interest and expenses for discounting or collecting bills. In the case of bills of exchange and cheques, the date of encashment shall be considered the date of payment. If discounting of the bill is rejected by our company bank or in the event of there being reasonable doubts of discounting of the bill taking place within the term of the bill, we shall be entitled to demand immediate payment in cash while returning the bill of exchange.

Article 10 Retention of title

- (1) We retain title to all equipment and goods we deliver (hereinafter referred to as a whole as "goods subject to retention of title") until all claims under the business relationship with the customer, including claims arising in the future from contracts concluded at a later date, are paid. This shall also apply to any balance in our favour when any or all claims by us are incorporated in a current invoice (current account) and the balance has been established.
- (2) The customer must insure the goods subject to retention of title adequately, in particular against fire and theft. Claims against the insurance arising from a case of damage relating to the goods subject to retention of title are herewith assigned to us in the value of the goods subject to retention of title.
- (3) The customer is authorised to resell the delivered goods in the normal course of business. The customer is not permitted to make other disposals, especially pledging or granting of equitable lien. If the goods subject to retention of title are not paid for immediately by third party buyers when resold, the customer shall be obliged to resell under retention of title only. Authorisation to resell the goods subject to retention of title shall not apply a priori if the customer suspends payment or defaults in payment to us.
- (4) The customer herewith assigns to us all claims including securities and ancillary rights that accrue to it against the end user or third parties with or in connection with the resale of goods subject to retention of title. The customer may not reach an agreement with its buyers that excludes or impairs our rights in any way or nullifies the claim's assignment in advance. When the goods subject to retention of title are sold with other items, the claim against third party buyers amounting to the purchase price agreed between us and the customer shall be deemed assigned unless the amounts applicable to the individual goods can be determined from the invoice.
- (5) The customer shall be entitled to collect a claim assigned to us or to the goods subject to retention of title that have been sold until such right is revoked by us, this revocation being admissible at any time. At our request, the customer is obliged to forward information and documents required to collect assigned claims, and unless we do so ourselves, notify its buyers immediately of the assignment.

- (6) If the customer incorporates claims from the resale of goods subject to retention of title in a current account relationship with its buyers, the customer shall herewith assign to us any recognised closing balance in its favour in the amount which corresponds to the total amount of the claim from the resale of our goods subject to retention of title, such claim being transferred to the current account relationship.
- (7) The customer must notify us immediately if the customer has already assigned claims from the resale of goods delivered or to be delivered by us to third parties, especially due to real or unreal factoring, or made other agreements which can impair our current or future security interests according to Article 10. In the case of unreal factoring, we shall be authorised to rescind the contract and request the goods already delivered to be handed over; this shall also apply to real factoring if, according to the contract with the factors, the customer is not free to dispose of the purchase price of the claim.
- (8) In the event of conduct in breach of the contract, especially in the case of default in payment, we shall be authorised – without first having to rescind the contract – to take back all goods subject to retention of title. The customer shall be obliged in this case to hand over the goods subject to retention of title immediately unless it is responsible for a minor breach of duty only. We may at any time during normal business hours enter the customer's business premises to determine the stock of the goods we delivered. Taking back the goods subject to retention of title shall only involve rescinding the contract if we expressly state this in writing or this is expressly prescribed by obligatory statutory provisions. The customer must notify us immediately in writing of any third-party access to goods subject to retention of title or any claim assigned to us.
- (9) If the value of securities existing for us according to the foregoing provisions exceeds the secured claims as a whole by more than 10%, we shall be obliged at the customer's request to release securities at our option.

Article 11 Exclusion and limitation of liability

- (1) We are liable for our own breach of obligations due to malice aforethought or gross negligence and for breach of obligations of our legal representatives or vicarious agents due to malice aforethought or gross negligence as well as for infringement of essential contractual obligations and in the case of impossibility and significant breach of obligations for which we are responsible.

The same shall apply if in the case of infringement of other obligations in the sense of section 241 (2) BGB, the customer can no longer be reasonably expected to accept our performance.

We are furthermore liable in the case of injury to life, limb and health, including by our legal representatives or vicarious agents. The same shall apply if and insofar as we have accepted guarantee for characteristics of our goods or the existence of successful performance or a procurement risk, as well as liability according to German product liability law (Produkthaftungsgesetz).

- (2) In all other cases, we shall be liable for all damage claims asserted against us or refunds under this contractual relationship for culpable breach of duty, for whatever legal reason, but not in the case of minor negligence.
- (3) In the case of liability pursuant to Article 11.2 as described above and liability without fault, especially given initial impossibility and defects of title, we shall be liable only for typical and foreseeable damage.
- (4) Liability from the assumption of a procurement risk shall only apply to us if we have expressly assumed the procurement risk by virtue of a written agreement.
- (5) The Liability for indirect damages and consequential damage caused by a defect shall be excluded unless we have infringed a material contractual obligation or we, our managers or vicarious agents are reproached for intentional or grossly negligent breach of duty.
- (6) We undertake no further liability.
- (7) Exclusion or limitation of liability according to the foregoing Article 11.2 to 11.6 shall apply to the same extent for the benefit of executive and non-executive employees and other vicarious agents as well as our sub-contractors.

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- (8) Claims by the customer for damage from this contractual relationship may only be asserted within a preclusion period of one year as of commencement of the statutory limitation period.
 - (9) There is no connection between the reversal of the burden of proof and the foregoing stipulations.

Article 12 Place of performance, legal venue, applicable law

- (1) Place of performance for all contractual obligations is our company's registered office. All disputes shall also be settled – if legally admissible – exclusively before the court with jurisdiction for the domicile of our company. We are however also entitled to bring an action against the customer at its general legal venue.
- (2) The Law of the Federal Republic of Germany shall exclusively apply to all legal relations between the customer and ourselves, in particular excluding the UN Sales Convention.

Article 13 Industrial property rights and copyrights; defects in title

- (1) Unless otherwise agreed, we shall be obliged to provide performance only within the Federal Republic of Germany that are exempt from third-party industrial property rights and copyrights (hereinafter "Property Rights"). If a third party raises justified claims against the customer on account of infringement of Property Rights by deliveries we have made and that were used in accordance with the contract us, we shall be liable to the customer as follows:
- (2) We shall at our discretion obtain a right of use at our expense for the deliveries in question or modify them so that the Property Right is not infringed, or shall exchange the products. If we cannot do so on reasonable conditions, the customer shall be entitled to its legal rights of rescission or reduction of price. The customer cannot, however demand compensation for efforts made with no result.
- (3) Our obligation to provide damage compensation is regulated under Article 11.
- (4) The obligations binding on us as indicated above shall apply only if and insofar as the customer notifies us in writing immediately about the claims asserted by a third party, does not admit any infringement and all defensive measures and settlement negotiations to avert the claims are reserved for us. If the customer stops using the delivery of loss minimisation or other reasons, the customer shall be obliged to advise the third party that cessation of use is not deemed to be an acknowledgement of an information of Property Rights.
- (5) The customer shall have no claims if it is responsible for infringement of a Property Right.
- (6) The customer shall also have no claims if infringement of the Property Right was due to the customer's special instructions, an application which we could not foresee or the fact that the delivery was modified by the customer or used with products we did not supply.
- (7) In the event of other defects in title arising, the provisions under Article 8 shall apply accordingly.
- (8) There shall be no more far-reaching or other claims of the orderer against the customer and its vicarious agents due to a defect in title other than those regulated here and under Article 8.

Article 14 Delivery of e-mails; obligations in electronic business communication

- (1) We are obliged to check incoming e-mails only once each working day. E-mails that are delivered to us from 9:00 a.m. to 5:00 p.m. shall be considered received at 5:00 p.m., unless it can be proven that they were received earlier. E-mails that are that are delivered to us outside these times shall be considered received at 5:00 p.m. on the following day, unless it can be proven that they were received earlier.

The obligations under section 312e I, subsections 1 to 3 BGB shall not apply.

Article 15 Confidentiality

- (1) All the commercial or technical information that we have made available, irrespective of its nature, including features that can be derived from objects and documents that we provide, and other information or experience we provide, are to be treated confidentially in relation to third parties and may be made available in the course of the customer's own operations only to such persons that have to be employed by the customer in the utilisation of these materials and information for the purpose of the delivery and that are also subject to a corresponding confidentiality obligation. These materials also remain exclusively our property. This information may not be duplicated or used for any commercial purpose without our prior written consent.

- (2) There is no confidentiality obligation in relation to information that can be proven
 - to have already been in the public domain at the time it was made available to the customer,
 - to have come into the public domain after being made available to the customer without the customer being responsible for this disclosure,
 - after it was provided by us, to have been communicated to the customer by a third party in a legally admissible way and without restrictions in relation to confidentiality or use.

The confidentiality obligation shall expire two years after the end of the contractual relationship between us and the customer.

All information originating with us (including any copies or records thereof that the customer may have made) and articles provided by way of loan are, when requested, to be returned to us without delay and in their entirety or to be destroyed. Destruction of such items is to be confirmed to us in writing. We reserve all rights to such information (including copyrights and the right to use industrial property rights, such as patents, utility models, trademarks, etc.). If such items were provided to us by a third party, this reservation of right also applies to the benefit of this third party.

Drawings, models, templates, samples and similar objects may not be provided or otherwise made available to any unauthorised third parties. The duplication of such objects is permissible only in the context of operational requirements and regulations on copyrights.

The parties may advertise with their business relationship only with prior written consent of the other party.

Article 16 Commencement of insolvency or composition proceedings; suspension of payment

- (1) An application to institute insolvency or composition proceedings by the customer or the customer's suspension of payments not due to justified retention rights or other rights shall entitle us to rescind the contract at any time or make delivery of the goods dependent on the prior fulfilment of the payment obligation. If the goods in question were already delivered, the purchase price shall be due immediately in the aforesaid cases. We shall also be entitled to reclaim the goods in the above-mentioned cases and to retain them until the purchase price is paid in full.

- (2) The regulations under Article 15.1 shall also apply if we have accepted cheques or bills of exchange by way of payment and the drawee or issuer files an application to institute insolvency or composition proceedings or discontinues its payments.

Article 17 Severability clause

If any individual contractual provision is void or ineffective in law, this shall not affect the remaining provisions. To replace the void or ineffective provision, an arrangement that comes as close as is legally possible to the original shall be considered agreed.

**General Terms of Delivery and Orders of
Helbako GmbH for deliveries and performance
to businesses**

Note

In line with the provisions of Bundesdatenschutzgesetz (German Data Protection Act), we point out here that our accounts are maintained using an EDP system and that we in this regard also store the data received in the context of our business relations with the customer.

October 2015