

General Terms and Conditions of Purchase of HUECK Rheinische GmbH

1. General Terms, Area of Application

1.1 The present General Terms and Conditions of Purchase (*Allgemeine Einkaufsbedingungen (AEB)*) (hereinafter referred to as "Terms") apply to all business relations between HUECK Rheinische GmbH (hereinafter referred to as "HUECK" or "we") and its contractors and suppliers (hereinafter referred to as "Supplier(s)"). The Terms apply only if the Supplier is a businessperson (sec. 14 German Civil Code (*BGB*)), a legal entity under public law or a public-law special fund.

1.2 The Terms apply in particular to contracts for the sale and/or delivery of movable objects (hereinafter referred to as "Goods") regardless of whether the Supplier manufactures the Goods itself or purchases them from other suppliers (secs. 433, 650 Civil Code (*BGB*)). Unless otherwise agreed, the Terms in the version valid at the time of our order or in any case in the version last communicated to the Supplier in text form shall also apply as a framework agreement for similar future contracts, without HUECK having to make express reference to this fact in each individual case.

1.3 These Terms apply exclusively. Deviating, conflicting or supplementary terms of business of the Supplier do not become part of the contract unless and until HUECK expressly consents to their application in writing. This requirement of consent shall apply in any case, e.g. even if the Supplier refers to its own terms and conditions in the order confirmation and HUECK does not expressly object to this.

1.4 Individual agreements (e.g. framework supply agreements, quality assurance agreements) and details in our order confirmation take precedence over these Terms. In case of doubt, commercial clauses shall be interpreted in accordance with the Incoterms® issued by the International Chamber of Commerce in Paris (ICC) in the version valid at the time of conclusion of the contract.

1.5 Declarations and notifications of legal relevance to be given by the Supplier to HUECK in relation to the contract (e.g. setting a deadline, notification of defects, notice of withdrawal from the contract or notice of reduction of the purchase price) must be made in writing. In writing within the meaning of these Terms includes written form and text form (e.g. letter, e-mail, fax). Statutory form requirements and further proof, in particular in the case of doubts about the legitimacy of the declarant, remain unaffected.

1.6 References to the application of statutory provisions have clarifying effect only. Accordingly, the statutory regulations apply even without such clarification, unless they are modified or expressly excluded in these Terms.

1.7 The English version of these Terms is for information purposes only. In case of any inconsistencies between the German and English version of these Terms the German version shall prevail.

2. Conclusion of the Contract

2.1 Orders from HUECK are deemed to have binding effect at the earliest when submitted or confirmed in writing. The Supplier must notify HUECK if there are obvious errors in the order or order documents (e.g. misspelling or arithmetical errors) or if it is/they are incomplete or ambiguous, so that HUECK may correct or complete the order prior to its acceptance; otherwise the contract is deemed not to have been concluded.

2.2 If HUECK has informed the Supplier of the intended use of the ordered Goods or services or if this is recognisable to the Supplier even without express notification, the Supplier is obliged to inform HUECK immediately in writing if it is aware of any reasons that conflict with the intended use by HUECK. The Supplier must also inform HUECK in writing of any authorisation requirements or restrictions on (re-)exports of the Goods to be delivered (products, software and technology) in accordance with the applicable export control and customs regulations and the export control and customs regulations of the country of origin. Clause 12 of these Terms applies additionally.

2.3 The Supplier is obliged to confirm the order from HUECK within a period of 10 days in writing or to perform the same by shipping the Goods without making any reservations (acceptance). A delayed acceptance constitutes a new offer and requires acceptance by HUECK.

3. Delivery Period and Delays in Delivery

3.1 The delivery period specified by HUECK in the order is binding. If no delivery period is specified in the order or is otherwise agreed, it is 2 weeks from the date of conclusion of the contract. The Supplier is obliged to notify HUECK without delay in writing if the Supplier – for whatever reasons – is foreseeably unable to adhere to the agreed delivery dates.

3.2 If the Supplier does not perform its service or does not do so within the agreed delivery period or gets into default, the rights of HUECK, especially with regard to withdrawal and damages, are determined by the statutory regulations. This does not affect the stipulations in clause 3.3 below.

3.3 If the Supplier gets into default, HUECK may require payment of a contractual penalty of 1% of the net price per complete calendar week, however, a maximum of 5% of the net price of the Goods or service delivered late. HUECK is entitled to demand the contractual penalty in addition to performance and the damages owed by the Supplier under the statutory regulations as the minimum amount of compensation; this does not affect claims to higher damages. If HUECK accepts the delayed performance, HUECK must claim the contractual penalty at the latest at the time of the final payment.

4. Performance, Delivery, Passing of the Risk, Default in Acceptance

4.1 The Supplier may not have the service owed by the Supplier performed by third parties (e.g. subcontractors) without the prior written consent of HUECK. The Supplier bears the risk of procurement for its services, unless otherwise agreed in the individual case (e.g. limitation to stock).

4.2 If the Supplier delivers Goods which are subject to certain legal requirements with regard to their use, their placing on the market or their further marketing in the European Economic Area or corresponding requirements in other countries of use specified by HUECK, the Supplier must ensure that the Goods comply with these requirements at the time of delivery. Certificates and confirmations which are necessary to prove the conformity of the Goods with the relevant requirements (e.g. manufacturer's declarations or declarations of conformity (CE)) must be prepared by the Supplier and made available to HUECK immediately upon request at its own expense.

4.3 Within Germany, delivery must be made "free to consignee" to the place specified in the order. If no destination is specified and unless otherwise agreed, delivery must be made to the registered office of HUECK in Viersen. The relevant destination is also the place of performance for the delivery and any subsequent performance ("*Bringschuld*": i.e. the Supplier is obliged to perform on HUECK's premises as the entity to whom the service is owed).

4.4 The delivery must be accompanied by a delivery note giving the date (of issue and shipment), contents of the delivery (article numbers and quantity) and quoting the HUECK purchase order (date and number). For deliveries of Goods across customs borders, the Supplier must enclose all necessary documents with the delivery, in particular the commercial invoice and the documents required for a complete and correct import customs declaration, unless these documents have already been sent in advance. If the delivery note or any other document to be attached to the delivery is missing or incomplete, HUECK shall not be responsible for any resulting delays in processing and payment. Advice of shipment must also be sent to HUECK separately from the delivery note, but with the same content.

4.5 The risk of accidental loss or deterioration of the Goods passes to HUECK at the time of handover at the place of performance. If acceptance has been agreed, this is binding for the passing of the risk. The statutory provisions of the law governing contracts for work and services otherwise also apply to acceptance. Handover or acceptance is deemed to have taken place if HUECK is in default with acceptance.

4.6 The statutory provisions determine the time at which HUECK is in default with acceptance. The Supplier must make an express offer of performance to HUECK even if a specific or ascertainable calendar period is agreed for an act or cooperation by HUECK (e.g. provision of material). If HUECK is in default with acceptance, the Supplier may require refund of its additional expenditure under the statutory provisions (sec. 304 Civil Code (*BGB*)). If the contract concerns an individual item to be manufactured by the Supplier (manufactured to specifications), the Supplier has more extensive rights only if HUECK undertook to cooperate and bears responsibility for failure to cooperate.

5. Prices and Terms of Payment

5.1 The price specified in the purchase order is binding. All prices are quoted inclusive of the statutory rate of value-added tax, unless it is shown separately.

5.2 Unless otherwise agreed in the individual case, the price includes all services and associated services of the Supplier (assembly, fitting) as well as all associated costs (e.g. proper packaging, transport costs, including any transport insurance and liability insurance). The Supplier must take back packaging if HUECK so requests.

5.3 The price agreed is due for payment within 30 calendar days from the date of complete delivery and performance (including any agreed acceptance) and receipt of a proper invoice. If HUECK makes payment within 14 calendar days, the Supplier grants HUECK 3% discount on the net amount of the invoice. In the case of bank transfer, payment shall be deemed to have been made on time if

HUECK's transfer order is received by HUECK's bank before expiry of the payment deadline; we are not responsible for delays caused by the banks involved in the payment process.

5.4 HUECK does not owe any interest from the due date. The statutory provisions apply to determine the time at which HUECK is in default. In any case, however, a reminder from the Supplier is required.

5.5 HUECK has the rights of set-off and withholding and the defence of non-performance of the contract to the extent provided for by statutory law. In particular, HUECK is entitled to withhold due payments as long as HUECK has claims against the Supplier based on incomplete or defective services.

5.6 The Supplier may exercise a right of withholding or set-off only with regard to receivables or claims that are undisputed or that have been established with final and legally binding effect.

6. Confidentiality and Reservation of Title

6.1 HUECK reserves all title and copyright to illustrations, plans, drawings, calculations, instructions for performance, product descriptions and other documents. Such documents are to be used solely for performance of the contract and must be returned to HUECK on completion of the contract. The documents must be kept confidential towards third parties, even after termination of the contract. The duty of confidentiality extinguishes if, and to the extent to which, the information contained in the documents handed over has entered the public domain. Special confidentiality agreements and statutory provisions on the protection of trade secrets remain unaffected.

6.2 The aforementioned provision applies *mutatis mutandis* to substances and materials (e.g. software, finished and semi-finished products) as well as to tools, models, designs and other items that HUECK has provided to the Supplier. Such items must, unless they are being processed, be kept separately in safe-keeping at the expense of the Supplier and insured to a reasonable extent against loss and destruction.

6.3 Any processing, mixing or combining (Further Processing) by the Supplier of items provided by HUECK is undertaken for and on behalf of HUECK. The same shall apply to any Further Processing of the delivered Goods by Hueck, so that Hueck shall be deemed the manufacturer and shall acquire title to the product no later than upon Further Processing in accordance with the statutory provisions.

6.4 The transfer to HUECK of title to the Goods takes place unconditionally and regardless of payment of the price. However, if HUECK accepts an offer of the Supplier for transfer of title conditional upon payment of the purchase price in an individual case, the Supplier's retention of title shall expire at the latest upon payment of the purchase price for the delivered Goods. Hueck shall remain authorised to resell the Goods in the ordinary course of business even before payment of the purchase price, assigning the resulting claim in advance (alternatively, the simple retention of title extended to the resale shall apply). This excludes all other forms of retention of title, in particular the overall retention of title, the forwarded retention of title and the retention of title extended to Further Processing.

7. Defective Delivery

7.1 HUECK's rights in the event of material defects and defects of title of the Goods (including wrong and short delivery as well as improper assembly/installation, defective instruction manuals) and in the event of other breaches of duty by the supplier shall be governed by the statutory provisions and, exclusively in favour of HUECK, by the following supplements and clarifications:

7.2 The Supplier is liable under the statutory provisions in particular for the Goods having the agreed properties at the time of the risk passing to HUECK. Deemed to be an agreement on the properties are in any case those product descriptions which are incorporated, in particular by description or by reference in the purchase order from HUECK, as subject matter of the relevant contract or which were incorporated into the contract in the same manner as these Terms. It makes no difference whether the product description originated from HUECK, the Supplier or the manufacturer. Even without express agreement, the Goods must comply with the respective state of the art and the relevant national or international standards, such as VDE, DIN, ISO and CE standards, insofar as their scope of application is open.

7.3 In the case of Goods with digital elements or other digital content, the Supplier is responsible for providing and updating the digital content to the extent that this results from a quality agreement pursuant to clause 7.2 or other product descriptions of the manufacturer or on his behalf, in particular on the Internet, in advertising or on the label on the Goods.

7.4 HUECK is not obliged to inspect the Goods or to make special enquiries about any defects upon conclusion of the contract. In partial derogation from sec. 442 para. 1 sentence 2 Civil Code (*BGB*), HUECK shall be entitled to claims for defects without limitation even if HUECK was unaware of the defect at the time of conclusion of the contract due to gross negligence.

7.5 The statutory duties of examination for defects and submission of any necessary complaints under secs. 377, 381 German Commercial Code (*HGB*) apply subject to the following conditions: HUECK's duty of examination is limited to defects that become obvious during HUECK's goods-received inspection with outer examination, including examination of the delivery documents, (e.g. transport damage, wrong delivery or short delivery) or which are recognizable during HUECK's random sample procedures in quality control. If acceptance has been agreed, there is no duty of examination. Otherwise, it depends on the extent to which an examination is usual according to proper business procedures taking account of the circumstances of the individual case. This does not affect HUECK's duty to complain about defects discovered later. Notwithstanding HUECK's duty to inspect, HUECK's complaint (notice of defect) is deemed in any case to be without delay and in good time if it is sent within 7 working days of discovery or, in the case of obvious defects, of delivery.

7.6 Subsequent performance shall also include the removal of the defective Goods and reinstallation, provided that the Goods were installed in, or attached to, another item in accordance with their nature and intended use before the defect became apparent; HUECK's statutory claim for reimbursement of corresponding expenses (removal and installation costs) shall remain unaffected; the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs and, if applicable, removal and installation costs, shall be borne by the Supplier even if it turns out that there was actually no defect. HUECK's liability for damages in the event of an unjustified request to remedy defects shall remain unaffected; in this respect, however, HUECK shall only be liable if HUECK recognised or was grossly negligent in not recognising that there was no defect.

7.7 Notwithstanding HUECK's statutory rights and the provisions in clause 7.5, the following shall apply: If the Supplier fails to meet its obligation to subsequent performance – at HUECK's discretion by elimination of the defect (subsequent improvement) or by delivery of Goods free of defects (replacement delivery) – within a reasonable deadline set by HUECK, then HUECK may eliminate the defect itself and claim the necessary expenses for the same or a corresponding advance payment from the Supplier. If subsequent performance by the Supplier fails or is unreasonable for HUECK (e.g. because of special urgency, risk to operating safety or a threat of disproportionately greater damage), no deadline is required; HUECK will notify the Supplier of such circumstances without delay and in advance, if possible.

7.8 Otherwise HUECK is entitled under the statutory provisions, in the event of material or legal defects, to reduce the selling price or to withdraw from the contract. Moreover, HUECK is entitled to compensation for any damages and refund of expenses under the statutory provisions.

7.9 The Supplier undertakes, when delivering technical equipment, to supply HUECK with spare parts for the usual service life subject to the usual trade conditions.

8 Supplier Recourse

8.1 HUECK shall be entitled to the statutory claims for expenses and recourse within a supply chain (supplier recourse pursuant to sections 478, 445a, 445b and sections 445c, 327 (5), 327u Civil Code (*BGB*) without restriction in addition to the claims for defects. In particular, HUECK is entitled to demand from the supplier exactly the type of subsequent performance (repair or replacement) that HUECK owes its customer in the individual case; in the case of goods with digital elements or other digital content, this also applies with regard to the provision of necessary updates. HUECK's statutory right of choice (sec. 439 para. 1 Civil Code (*BGB*)) shall not be restricted thereby.

8.2 Before HUECK recognises or fulfils a claim for defects asserted by its customer (including reimbursement of expenses pursuant to sections 445a para. 1, 439 para. 2, 3, 6 sentence 2, 475 para. 4 Civil Code (*BGB*)), HUECK shall notify the Supplier and request a written statement, briefly explaining the facts of the case. If a substantiated statement is not made within a reasonable period of time and if no amicable solution is reached, the claim for defects actually granted by HUECK shall be deemed to be owed to its customer. In this case, the Supplier shall bear the burden of proof to the contrary.

8.3 HUECK's claims arising from supplier recourse shall also apply if the defective Goods have been combined with another product or processed in any other way by HUECK itself, its customer or a third party, e.g. by installation, attachment or installation.

9. Intellectual Property Rights

9.1 The Supplier is liable for ensuring that no patents, copyrights or other intellectual property rights of third parties are infringed by its delivery and the use by HUECK that is foreseeable to the Supplier.

9.2 If a claim is brought against HUECK by a third party by reason of infringement of such a intellectual property right, the Supplier will indemnify HUECK against these claims on the first written demand and refund all expenses necessarily incurred by HUECK because of the claim.

9.3 The aforementioned conditions do not apply if the Supplier has delivered Goods according to the drawings, designs, models or similar specifications provided by HUECK and does not know or need not know that intellectual property rights have been infringed.

9.4 At HUECK's request, the Supplier must apply the trademarks and trade names of HUECK to the Goods ordered by HUECK. Goods so labelled may only be delivered to HUECK. Accordingly, these labels must be removed from Goods returned to the Supplier for the free disposal of the Supplier prior to use for any other purpose.

10. Manufacturer's Liability

10.1 If the Supplier is responsible for damage caused by a product, the Supplier is obliged to discharge HUECK from third party claims to the extent that the cause lies in the Supplier's area of control and organisation and the Supplier itself is liable in relations with third parties.

10.2 Within the framework of the Supplier's duty of indemnity, the Supplier must refund expenses as per secs. 683, 670 German Civil Code (*BGB*) arising from, or in connection with, any claim of third parties including any recall actions undertaken by HUECK. As far as possible and reasonable, HUECK will notify the Supplier of the contents and scope of any recall actions and give the Supplier an opportunity to make a statement. This does not affect further statutory rights.

10.3 The Supplier undertakes to arrange and maintain product-liability insurance with a lump-sum cover amount of EUR 10 million per personal-injury/property-damage claim.

11. Statute of Limitations

11.1 Unless otherwise agreed below, the mutual claims of the contractual parties become time-barred in accordance with the statutory regulations.

11.2 In derogation from sec. 438 (1) No. 3 Civil Code (*BGB*), the general limitation period for claims based on defects is 3 years from the date of passing of the risk. If acceptance has been agreed, this determines the start of the limitation period. The 3-year limitation period also applies to claims based on legal defects, in which case the statutory limitation period for *in rem* claims for surrender of third parties (sec. 438 (1) No. 1 Civil Code (*BGB*)) remains unaffected; claims arising from legal defects do not become statute barred for as long as such third party is still able to bring claims against HUECK - in particular because limitation has not taken effect.

11.3 The limitation periods for the law governing contracts of sale including the above extension apply to the statutory extent to all contractual claims based on defects. If HUECK also has claims based on a defect outside the contract, the normal statutory limitation period applies to the same (secs. 195, 199 Civil Code (*BGB*), unless the application of limitation periods under the law governing contracts of sale determines a longer limitation period.

12. Export Control and Foreign Trade Data

The Supplier undertakes to fulfil all requirements of the applicable national and international customs and foreign trade law ("Foreign Trade Law"). The supplier must notify HUECK in writing no later than two weeks after the order and immediately in the event of changes of all information and data required by HUECK for compliance with Foreign Trade Law in the event of export, import and re-export. This includes in particular

- the number of the German export list (AL no.) and the Dual Use Regulation;
- the statistical goods number according to the current goods classification of foreign trade statistics and the HS (Harmonised System) code;
- the country of origin (non-preferential origin) and, if required by HUECK, supplier declarations of preferential origin (for European suppliers) or certificates of preference (for non-European suppliers) and
- all applicable export list numbers including the Export Control Classification Number according to the U.S. Commerce Control List (ECCN).

13. Choice of Law and Place of Jurisdiction

12.1 These Terms and the contractual relationship between HUECK and the Supplier shall be governed by the law of the Federal Republic of Germany to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods (CISG).

12.2 If the Supplier is a registered merchant within the meaning of the German Commercial Code (*HGB*), a legal entity under public law or a public-law special fund then the exclusive (also international) place of jurisdiction for all disputes arising from or in connection with the present contract is the registered office of HUECK. However, HUECK shall in all cases also be entitled to bring an action at the place of fulfilment of the delivery obligation in accordance with these Terms or an overriding individual agreement or at the Supplier's general place of jurisdiction. Overriding statutory provisions, in particular regarding exclusive jurisdiction, shall remain unaffected.