

## General Purchasing Terms and Conditions of the HAVER & BOECKER OHG (Machinery Division)

- 1. General**
- 1.1 Any orders placed by us are exclusively subject to the purchasing conditions stated hereinafter unless otherwise agreed in writing. This shall also apply even we do not expressly disagree with the Supplier's conditions.
- 1.2 With the acceptance of the purchase orders placed by us the Supplier warrants and is responsible for that he observes respectively will observe any relevant and respectively valid national and international provisions, laws, decrees and regulations. This applies in particular to the compliance with the control of the different sanctions lists as well as, but not limited to, the so-called black lists.
- 1.3 For compliance with the export control regulations we have to be provided with all necessary information whether the products to be supplied are listed in one of the export control respectively embargoed countries lists. If this is the case the corresponding passages in the relevant regulations including details of the technical parameters of the products have to be stated to us.
- 2. Orders**
- 2.1 Purchase orders, agreements or other declarations shall only be binding when they have been submitted or confirmed by us in writing.
- 2.2 Subsequent change requests shall be taken into consideration by the Supplier. If a request shall entail an adjustment of term or price it has to be agreed upon with us in writing.
- 3. Prices**
- 3.1 The prices stated in our purchase order and confirmed by the Supplier are fixed prices.
- 3.2 The price shall include all necessary technical documentation in the quantities and languages requested by us.
- 3.3 Unless otherwise agreed upon in writing changes or alterations due to subsequently arising cost increases shall be excluded.
- 4. Delivery time**
- 4.1 The agreed delivery dates and times shall be binding and must be adhered to under all circumstances. The delivery time shall be deemed complied with when the object of delivery arrives at its place of destination stated by us or respectively - in case an official acceptance is to be carried out - when the object of delivery is accepted by us. In the event the delivery time cannot be adhered to, then we shall be informed thereof without delay.
- 4.2 If the Supplier does not fulfil his performance in due time due to reasons the Supplier is responsible for, then the legal provisions shall apply.
- 5. Dispatch, packaging, transfer of risk**
- 5.1 The shipment of the goods shall be accompanied by a delivery note that states the quantities and dimensions.
- 5.2 The Supplier shall be responsible for appropriate and suitable packaging and loading.
- 5.3 The transfer of risk shall take place according to Incoterms 2010.
- 6. Invoice and payment**
- 6.1 Invoices shall be sent to us in duplicate immediately after delivery. Payment terms and cash discount provisions shall become effective beginning on the day the invoice is received, but at no time before arrival of the goods. Unless otherwise agreed upon, payment shall be effected 14 days after receipt of the invoice with a 3% cash discount or 30 days after receipt of invoice with a 2% cash discount, or 60 days net after receipt of invoice.
- 6.2 We expressly reserve the right to the offset of due counter-claims and to the exercise of the right of retention.
- 6.3 Our payments shall not be considered as acceptance of proper delivery.
- 7. Retention of title**
- The delivered goods shall become our exclusive property upon payment at the latest, any extended form of retention of title by the Supplier or by third parties is void and shall not be accepted by us.
- 8. Liability for defects**
- 8.1 The Supplier shall be responsible that all deliveries/performances correspond to the state-of-the-art and comply with all safety and environmental regulations.
- 8.2 The limitation period for any defects is 36 months beginning with transfer of risk. Any defects of the delivery respectively performances notified during the limitation period have to be eliminated by repairing or replacing the defective parts according to our discretion without undue delay and free of charge, also covering all ancillary costs. We reserve the right to demand new delivery of a non-defective item or non-defective service. Remedy of defects as well as new delivery or new manufacture has to be effected without undue delay. They result in the renewed commencement of the period of limitation.
- 8.3 The liability for defects shall not be limited neither by the fact that we checked or approved calculations, drawings, executions etc. of the Supplier nor that we made suggestions or conducted quality controls.
- Any further claims for defects, in particular the right of termination and our right of compensation for damages remain unaffected. Should the Supplier fail to fulfil his obligation to subsequent performance within a reasonable deadline set by us we shall be entitled to carry out the necessary measures ourselves or by third parties at the expense and risk of the Supplier. Especially in urgent cases we shall have the right after consultation with the Supplier to carry out the subsequent performance in form of remedying the defect ourselves or by third parties. In the interests of undisturbed production we shall be entitled to  
  
remedy minor defects ourselves without prior consultation and to invoice the respective expenses to the Supplier without thereby affecting the Supplier's statutory commitments. The same shall apply if unusually high levels of damage threaten.
- 9. Liability**
- 9.1 The Supplier's liability is subject to the legal provisions. Liability exclusions or limitations of any kind whatsoever shall not be accepted by us.  
This provision shall also apply to the breach of a non-essential contractual obligation or liability for assistants as well as in case of a limitation of liability to a maximum amount or specific damages or limiting liability by shortening the legal limitation period.
- 9.2 For defects in the goods the Supplier is responsible for, the Supplier shall release us from the product and manufacturer's liability resulting therefrom to the extent the Supplier himself would be liable.
- 10. Notification of defects**
- 10.1 At the delivery of goods to be checked by us as per § 377 of the German Commercial Code (HGB), the time period for inspection and notification of visible defects shall be 2 weeks from the time of acceptance of the delivery at the place of their use. The notification period for latent defects shall be 2 weeks after their discovery.
- 10.2 Upon the notification of defects, the limitation period shall be suspended.
- 11. Documentation and Quality**
- 11.1 The Supplier guarantees in particular that his scope of delivery conforms to the relevant EC directives, in particular the EC Machinery Directive, the German Equipment Safety Law and the machinery directive. The Supplier shall hold us harmless from any and all claims of third parties resulting from non-compliance with the directives by the Supplier.
- 11.2 For Suppliers of the European Community: The Supplier shall confirm by submitting a supplier's declaration that the products are manufactured in the European Community and correspond to the rules concerning provisions of the term "originating product" which apply in the trade of goods on preference terms. Manufacture in other countries is subject to our explicit and written approval and has to be designated properly and in accordance with the valid legal regulations. The supplier's declaration can be issued as long-term declaration at a maximum for one year or as individual declaration on every invoice. The Supplier shall be obligated, if necessary, to prove correctness of the supplier's declaration by providing an information sheet and to compensate the damage which may occur as a result of an incorrect supplier's declaration.
- 11.3. The Supplier has a claim for payment of an invoice only if there is a supplier's declaration for the delivery or if the purchase contract does not provide for a supplier's declaration.
- 11.4 The Supplier agrees to make available to us at no cost the necessary instructions and documents, in particular also including spare parts lists and purchasing sources, necessary for the use, assembly, servicing, cleaning and repair of the subject matter of the contract.
- 12. Supply of spare parts**
- The Supplier assures supply of spare and wear parts for a period of minimum 10 years after the original delivery.
- 13. Confidentiality, data protection**
- 13.1 All drawings as well as all models manufactured for us and tools shall remain or will become our exclusive property. They shall be used only for their agreed purpose and not for any other purpose. Copies or other types of duplication, including electronic storage, processing or transmission using electronic systems shall only be made for the agreed

purpose. Neither originals nor copies of any type may be handed or supplied to third parties.

- 13.2 Referring to our business relationship in any way for the purpose of advertising or promotion shall not be permitted without our prior written approval.
- 13.3 The Supplier shall be obligated to compensate for all damages incurred by us through a breach of any of the above mentioned obligations.
- 13.4 As per § 33 of the Federal Data Protection Act (BDSG) we advise that the Supplier's data is stored within the provisions of the Data Privacy Act.

**14. Intellectual property rights**

The Supplier shall assure that the rights of third parties do not conflict with the intended use of the purchased goods especially industrial property rights of third parties are not violated or infringed. In case we are claimed because of the possible violation of rights of third parties, such as copyrights, patent and other intellectual property rights, the Supplier shall release us herefrom and from any other related performance.

**15. Other provisions**

For all other matters that are not stated in these general terms and conditions, the legal provisions shall apply in general and exclusively.

**16. Severability clause**

If one clause of these terms and conditions should be void or become invalid, this shall have no effect on the validity of the remaining content of the terms and conditions. The void or invalid clause(s) shall be replaced by valid ones, through which the economic purpose aimed at is reached as far as possible.

**17. Place of fulfilment, court of legal jurisdiction and choice of law**

- 17.1 Place of fulfilment for deliveries/performances – inclusive the warranty obligations – shall be the place of destination specified by us in the purchase order.
- 17.2 The competent court for any legal proceedings is Münster. However, we shall also be entitled to sue the Supplier before the court having jurisdiction over the Supplier's place of business.
- 17.3 For all legal relationships between the Supplier and us, the Law of the Federal Republic of Germany shall apply. The provisions of the United Nations Convention of Contracts for the International Sales of Goods (CISG) shall be expressly excluded.

**The English version of these terms and conditions shall be for convenience purposes only. In case of any inconsistencies, the German version shall prevail.**