

# Terms and conditions of purchase of HUMMEL AG

## Section 1 General information and area of application

- Our terms and conditions of purchase apply exclusively. We do not recognise the Supplier's terms and conditions of purchase that conflict with or vary from our terms and conditions of purchase, unless we have expressly agreed to their validity in writing. Our terms and conditions of purchase also apply if we unconditionally accept the Supplier's delivery in the knowledge that the Supplier's terms and conditions conflict with or vary from our terms and conditions of purchase. This does not apply to individual agreements entered into in specific cases.
- All agreements entered into by us and the Supplier are subject to the text form. The text form clause also applies expressly to subsidiary agreements. Eliminating the text form requirement by way of agreement is similarly subject to the text form.
- The terms and conditions of purchase apply only to entrepreneurs within the meaning of Section 14 BGB (German Civil Code), legal entities under public law or special funds under public law within the meaning of Section 310 (1) BGB.
- In ongoing business relationships, these terms and conditions shall also apply to all future transactions, unless other provisions are expressly agreed.

## Section 2 Offers, acceptance

- We reserve ownership rights and copyrights to drawings, designs, models, matrices and samples, etc. that we have made available to the Supplier for the purpose of submitting a quotation or executing an order. The Supplier expressly undertakes not to allow third parties to view or use these or make them available in any other way without our written consent, and not to supply the goods manufactured in this manner to third parties in raw form or as semi-finished or finished products without our written consent. Following completion of the order, they are to be returned to us without request.
- The Supplier's offers and cost estimates are free of charge and do not constitute any obligations on our part, but rather are subject to our express acceptance in writing. The Supplier is to adhere precisely to the specifications and wording of our enquiry in its offer, expressly point out any variations from our enquiry and additionally offer us alternatives that are technically or economically more favourable than the enquiry. For the sake of clarity, the obligation to furnish information does not apply to varying delivery dates. If the Supplier varies from the specifications and/or the precise wording of our offer in an order confirmation, the Supplier is to expressly draw attention to this. Section 150 (2) BGB applies. A contract shall only be brought about if we expressly agree to such variations in writing. Unconditional acceptance of a delivery that varies from our offer does not constitute consent. Section 8 remains unaffected.
- All documents issued by the Supplier must state the order number and date of the order / commission, as well as the material designation and number assigned or communicated by us.
- All kinds of safety data sheets and documents that we require for the use, assembly, processing, storage, operation, maintenance, inspection, servicing and repair of the delivery item, in particular due to legal provisions, are to be made available to us by the Supplier in good time, at the latest with the order confirmation, unsolicited and free of charge.
- If we do not receive confirmation of the order within two weeks of receiving the order, we shall be entitled to cancel the order free of charge.

## Section 3 Assignments, offsetting

- All payments are to be made to the Supplier only. Assigning payments to third parties is excluded. Section 354a HGB (German Commercial Code) remains unaffected.
- The Supplier is not entitled to transfer the order or significant parts of the order to third parties without our prior, written, consent.
- The Supplier may only offset claims that are undisputed or have become res judicata.

## Section 4 Prices

- Prices are fixed and include statutory value added tax. They shall be deemed to have been delivered to the receiving point stated by us. Price changes must be expressly accepted by us in writing. No claims can be made against us for obvious errors, typographical errors or calculation errors in our orders.
- Packaging costs shall only be reimbursed separately if this has been expressly agreed in writing. They are then to be credited to us when the packaging is returned carriage paid.

## Section 5 Delivery conditions, delivery periods, packaging, passing of risk

- Agreed dates and periods have binding force. Partial deliveries and early deliveries made more than 5 working days before the agreed dates shall only be permitted with our prior consent. Receipt of the goods by us or the stated receiving point is authoritative in respect of complying with the delivery date or delivery period. If delivery "Free ex works" has not been agreed, the Supplier shall make the goods available in good time, taking into account the time required for loading and dispatch to be agreed with the forwarding agent.
- All shipments are to be accompanied by a delivery note in duplicate, stating our complete order number, or, in the case of open shipments, attached to the consignment note.
- The Supplier undertakes to inform us without delay in text form of circumstances that arise, or of which it becomes aware, that suggest that the stipulated delivery time cannot be met. If the latest delivery date can be determined on the basis of the contract, the Supplier shall be in default upon expiry of such a date without the necessity of a reminder on our part.
- If the Supplier culpably exceeds the agreed delivery date, it shall pay us a contractual penalty of 1 % of the net value of the goods for each week or part thereof for which the delivery date is exceeded, up to a maximum of 10 % of the net value of the goods, unless the Supplier can furnish proof that the damage was less or that no damage was incurred. The contractual penalty shall be counted towards any claim for damages due to delay. Asserting claims for damages that extend beyond this remains unaffected. We shall, in particular, continue to be entitled to our statutory claims.
- With regard to packaging, the Supplier is to comply with the relevant legal provisions, in particular the Packaging Ordinance as stated in the respective, valid, version. The Supplier shall package the goods at its own expense in such a way as to prevent damage during transport. Dangerous goods are to be packaged, labelled and shipped in accordance with the requirements of the statutory provisions applicable at the time of delivery.
- Unless otherwise agreed, the Supplier shall ensure that the most favourable solution for us is chosen with regard to the mode of transport and delivery time. Notification is to be provided in good time of larger shipments, from 5 pallets upwards.
- Shipment occurs at the Supplier's risk. The risk of any deterioration, including accidental loss, shall, therefore, remain with the Supplier until delivery to the shipping address or place of use specified by us.

## Section 6 Defects, warranty

- The Supplier shall transfer the goods free of material defects and defects of title. In the case of goods, the Supplier guarantees, in particular, that they are free from material and manufacturing defects that reduce their value or suitability for the contractually required or customary use. The goods must comply with the agreed requirements and all laws, regulations, DIN, EN and ISO standards and recognised rules of technology applicable to both us and the Supplier.
- If the rendered services do not meet one or all of the above requirements, we shall be entitled to the statutory warranty claims without restrictions. The cost of remedying the defects, including any ancillary costs, in particular transport, travel, labour, installation, removal and material costs, shall be borne by the Supplier. This also applies to our customers' costs, insofar as we are required to bear these internally in relation to our customers.
- The Supplier guarantees that the services it renders do not infringe upon any third-party rights. Should third parties assert a violation of their rights against us, the Supplier shall indemnify us against all resulting damages and costs, including court and settlement costs and the costs of legal advice deemed necessary by us at our reasonable discretion. The Supplier shall proactively support us in the judicial and extrajudicial settlement of such disputes with third parties, whereby we shall retain the sole right to conduct legal proceedings and the right to enter into judicial and extrajudicial settlements.
- In the event of imminent danger, we shall be entitled, after notifying the Supplier accordingly, to remedy the defects ourselves at the Supplier's expense.

- The limitation period for our claims and rights due to defects in deliveries and services – regardless of the legal basis – is two years from the transfer of risk. In the case of subsequent performance, the limitation period shall commence afresh upon completion of the subsequent performance measure. Longer statutory limitation periods remain unaffected, as do further statutory provisions on the suspension of expiry, the suspension and the recommencement of periods.
- Irrespective of these provisions, the Supplier shall be liable in accordance with the statutory provisions.

## Section 7 Liability

- The Supplier shall be liable for intent and negligence as well as the culpability of its vicarious agents and any subcontractors as it is for its own culpability.
- Insofar as the Supplier is responsible for product damage, it undertakes to indemnify us against claims for damages by third parties at the first request. In such a case, the Supplier also undertakes to reimburse any expenses in accordance with Sections 683, 670 BGB resulting from or in conjunction with a recall campaign conducted by us. We shall inform the Supplier of the content and scope of the recall measures to be conducted, as far as possible and reasonable, and give it the opportunity to comment. Asserting claims for damages that extend beyond this remains unaffected. We shall, in particular, continue to be entitled to our statutory claims.
- The Supplier undertakes to maintain liability insurance for personal injury, property damage and financial loss, which also covers damage that may arise from the rendering of services, including product liability. The sum insured must be at least 5.0 million euros for each insured event. If we are entitled to further claims for damages, these shall remain unaffected. The Supplier shall maintain this insurance cover at least until the end of all relations resulting from this contract.

## Section 8 Investigation of defects

- We undertake to inspect the goods within a reasonable period of time for any variations in quality or quantity. Complaints in accordance with Section 377 HGB shall be deemed to have been made in good time if they are sent within 10 days of identifying a defect.
- If no such notification is made within this period, the services in question shall be deemed to have been approved, unless defects are subsequently identified that were not apparent during the initial inspection.
- We shall notify the Supplier of any defects that were not apparent during the initial inspection as soon as they are discovered in the normal course of business. Notification of a defect identified at a later date shall be deemed to have been made in good time if it is made within 10 working days of the time of identification. Payments do not constitute a waiver of claims for defects. The date of dispatch of the notification is authoritative or the timely submission of notification of defects.

## Section 9 Force majeure

War, civil war, export restrictions or trade restrictions due to a change in political circumstances, as well as strikes, lockouts, operational disruptions, operational restrictions and similar events that make it impossible or unreasonable for us to execute the contract, are considered force majeure and release us from the obligation to accept delivery on time for the duration of their occurrence. Upon notification by us, the Supplier undertakes to adapt its obligations in line with the changed contractual relationships in good faith. If the force majeure event is of considerable duration, i.e. lasts for at least 2 weeks without interruption, we shall be entitled to withdraw from the contract if it results in a significant reduction in our requirements. This is particularly the case if our demand decreases by more than 30 %.

## Section 10 Invoicing

The invoice is to be sent to us immediately after dispatch of the goods. It must contain our complete order number, date of order, delivery note number, numbers of packages, crates or barrels, and the quantity of goods invoiced for each type separately. The invoice may only refer to one delivery note.

## Section 11 Terms and conditions of payment

Payment is to be made within 14 days at a 3 % discount, within 30 days at a 2 % discount, or within 60 days without any deductions. The payment period shall commence upon delivery of the goods and receipt of a properly issued invoice. We shall only be in default if we fail to perform after receiving a justified reminder from the Supplier. Receipt of our transfer order by our bank shall suffice for payments incumbent upon us to be deemed made in good time. In the event of late payment, we shall be required to pay interest on arrears at a rate of 5 percentage points above the base rate in accordance with Section 247 BGB.

## Section 12 Place of performance, choice of law and place of jurisdiction

- The place of performance is the receiving point specified by us.
- German law applies, by way of exclusion of the referral provisions of international private law and the UN Sales Law.
- In the event of any disputes resulting directly or indirectly from the contractual relationship, if the customer is a merchant, a legal entity under public law or a special fund under public law, legal action is to be brought before the court with jurisdiction for our registered office, which is located in D-79211 Denzlingen. However, we are entitled to assert our claims at any other admissible place of jurisdiction.

## Section 13 Terms and conditions of purchase for tools

When ordering parts for which the Supplier uses tools paid for by us, our "Terms and Conditions of Purchase for Tools" below apply to the tools:

- The following conditions shall apply if the Supplier uses tools when manufacturing parts for which we pay manufacturing costs as agreed in our current or future orders for the delivery of parts. Tools within the meaning of these terms and conditions are all kinds of tools, such as punching and cutting tools, injection moulds, die-casting moulds, press moulds, moulds, models, dies and the like.
- The tools shall become our property upon purchase or manufacture by the Supplier. The handover shall be replaced by the Supplier storing the tools for us free of charge. In such a case, Section 690 BGB shall not apply. With ownership, we also acquire the right to allow third parties to use the tools to manufacture parts for us, to repair, renew or modify the tools for our own purposes or via third parties. However, we shall be entitled to withdraw the tools if the parts are not delivered on time, in the proper manner or at market prices.
- The Supplier shall maintain and repair the tools at its own expense and, if necessary, replace them during the agreed service life (technical service life). The same applies to the renewed tools.
- The Supplier may not forward the tools to third parties or use them for its own or third party purposes without our written consent.
- In addition, the above "Terms and Conditions of Purchase of HUMMEL AG" apply.