

Terms and conditions of sale and delivery of HUMMEL AG

Section 1 General information and area of application

- These General Terms and Conditions of Sale and Delivery apply only if the Seller is an entrepreneur (Section 14 BGB (German Civil Code)), a legal entity under public law or a special fund under public law.
- The following terms and conditions of sale and delivery apply exclusively to our deliveries and services. Additions and any varying general terms and conditions of the Customer shall only apply if they have been confirmed by us in writing. This applies accordingly to amendments to these terms and conditions. Unconditional delivery or other silence regarding the Customer's varying general terms and conditions of business shall not be deemed acceptance of these terms and conditions by us, even if we are aware of them. An explicit rejection of the Customer's varying terms and conditions is not required. This does not apply to individual agreements entered into in specific cases.
- In ongoing business relationships, these terms and conditions shall also apply to all future transactions, unless other provisions are expressly agreed.

Section 2 Entering into a contract

- Our offers are subject to change without notice. Information about the object of delivery or service (e.g. weights, dimensions, utility values, load capacity, tolerances and technical data) as well as representations thereof (e.g. drawings and illustrations) are only approximate unless the usability for the contractually intended purpose requires exact conformity. They are not warranted characteristics, but descriptions or identifications of the delivery or service. Standard variations and variations due to legal regulations or technical improvements, as well as the replacement of components with equivalent parts, are permissible provided they do not impair the usability for the contractually intended purpose.
- By ordering goods, the Customer makes a binding declaration of its intention to purchase the ordered goods. We are entitled to accept the contractual offer contained in the order within two weeks of receipt. Acceptance may be declared either in writing or by delivery of the goods to the Customer. Telecommunication transmission, in particular by fax or e-mail, shall suffice to comply with the written form requirement.
- If the Customer orders the goods electronically, we shall confirm receipt of the order without delay. Confirmation of receipt does not constitute a binding acceptance of the order. The confirmation of access may be combined with the declaration of acceptance.
- We shall be entitled to withdraw from the contract if we have previously entered into an implied covering transaction and have not received the delivery item through no fault of our own, by way of exercising due commercial care. The Customer shall be informed without delay of the delayed availability of the delivery item. Both we and the Customer have the right to withdraw from the contract. In the event of withdrawal, the counter performance shall be refunded without delay.
- The place of performance is our registered office.

Section 3 Reservation of title

- We reserve ownership of the delivered goods until all claims resulting from an ongoing business relationship with the Customer have been settled in full. If the value of all security interests to which we are entitled exceeds the amount of all secured claims by more than 10%, we shall release a corresponding portion of the security interests at the Customer's request. We shall be entitled to choose between different security interests when releasing them.
- The Customer undertakes to treat the goods with care. If maintenance and inspection work are required, the Customer is to perform such work regularly at its own expense.
- The Customer undertakes to notify us without delay of any access by third parties to the goods, for example in the event of seizure, as well as any damage to or destruction of the goods. The Customer is to notify us without delay of any change in ownership of the goods or of its own company headquarters.
- We shall be entitled to withdraw from the contract and demand the return of the goods in the event of breach of contract by the Customer, in particular in the event of default in payment or breach of an obligation under sub-sections 2 and 3 of this provision. Further claims remain unaffected by this.
- The Customer is entitled to resell the goods in the ordinary course of business. It hereby assigns to us all claims in the sum of the invoice amount accruing to it from the resale to a third party. We accept the assignment. Following the assignment, the Customer shall be authorised to collect the claim. We reserve the right to collect the claim ourselves as soon as the Customer fails to meet its payment obligations properly and defaults in payment.
- The processing and treatment of the goods by the Customer shall at all times be carried out in our name and on our behalf. If processing is carried out with items that do not belong to us, we shall acquire co-ownership of the new item in the proportion of the value of the goods delivered by us to the other processed items. The same applies if the goods are mixed with other items that do not belong to us.

Section 4 Prices

- Unless otherwise agreed, prices are ex works and exclude packaging.
- Packaging is charged at cost price. Packaged goods cannot be returned.
- Value added tax at the applicable statutory rate shall be added to the prices. If advance payments are made as agreed, value added tax shall be added to the advance payment amount.
- The Buyer shall bear the transport costs ex works and the cost of any transport insurance that may be required. Any customs duties, fees, taxes and other public charges shall be borne by the Buyer.
- The Customer shall not incur any additional costs when placing an order using long-distance communications.
- The price basis for our brass electrical engineering products is the metal price for MS 58 of EUR 150. If this metal price changes by EUR 12.50 upwards or downwards, the prices for brass items shall be adjusted by a surcharge or discount of 5% respectively. The metal price can be found in the daily press.
- For small orders with an order value of less than EUR 75.00, a surcharge of EUR 25.00 (minimum quantity surcharge) shall be added to the prices.

Section 5 Payment

- Unless otherwise agreed, all payments shall be made to the specified paying agent within 14 days of the invoice date, strictly net.
- For contracts with a delivery value of more than EUR 25,000, we shall be entitled to request a deposit of 10% of the purchase price. The deposit is due and payable within 14 days of the invoice date.
- The Customer shall pay interest on the debt during the period of default. The default interest rate for the year is 9 percentage points above the base rate.
- We only accept bills of exchange on the basis of special agreements and only on account of performance. The Customer shall bear all costs associated with the bill of exchange. We are not liable for the timely nature of the protest.
- Withholding payments or offsetting against any counterclaims of the Customer that are disputed by us and have not been legally established are not permitted.

Section 6 Passing of risk and shipping

- If shipment of the goods has been agreed and we have not taken over transport, risk shall pass to the Customer at the latest upon handover of the delivery item to the forwarding agent, carrier or other third party designated to perform the shipment.
- If dispatch is delayed due to circumstances for which the Customer is responsible, risk shall pass to the Customer once the delivery item is ready for dispatch and we have notified the Customer thereof.
- At the Customer's request, we shall insure the shipment according to its specifications at its expense.
- Handover shall be deemed to have taken place if the Customer is in default of acceptance.

Section 7 Acceptance

The Customer may not refuse to accept goods due to minor defects.

Section 8 Material defects/limitation period

We shall be liable for material defects in accordance with the following provisions:

- All parts or services that exhibit a material defect within the limitation period, regardless of the operating time, shall be repaired, replaced or re-performed free of charge at our discretion, provided that the cause of the defect already existed at the time of passing of risk.
- Claims for material defects fall under the statute of limitations after 12 months. This shall not apply insofar as the law prescribes longer periods in accordance with Sections 438 (1) No. 2 (buildings and items for buildings), 445 b, 478 (1) (right of recourse), and 634 a para. 1 no. 2 (construction defects) BGB, and shall not apply in the case of claims for damages by the Customer resulting from loss of life, physical injury or detrimental effects on health or from intentional or grossly negligent breaches of duty by us or one of our vicarious agents, which are subject to the statutory limitation periods in each case. The statutory provisions governing suspension of expiry, suspension and restarting of time limits remain unaffected.
- Claims for defects by the Buyer presuppose that it has fulfilled its statutory obligations to inspect and provide notification of defects (Sections 377, 381 HGB). If a defect is identified during the inspection or later, HUMMEL AG is to be notified of this without delay in writing. The notification shall be deemed to have been made without delay if it is communicated within 2 weeks, whereby timely dispatch of the notification shall suffice to meet the deadline. Irrespective of this, the Customer is to notify us in writing of any obvious defects within a period of 2 weeks from receipt of the goods (notification of defects). Otherwise, asserting claims for material defects is excluded. Timely dispatch is sufficient to meet the deadline. The Customer bears the full burden of proof for all claim requirements, in particular for the defect itself, for the time of discovery of the defect and for the timeliness of the notification of defects.
- In the event of complaints, payments by the Customer may be withheld to an extent that is proportionate to the material defects that have arisen. The Customer may only withhold payments if a complaint is made that is indisputably justified. If the complaint about defects was unjustified, we shall be entitled to demand reimbursement from the Customer for the expenses incurred by us.
- First, we must be given the opportunity to rectify the defect within a reasonable period of time. Subsequent performance does not include the removal of the faulty item or its re-installation if we were not originally under obligation to install it.

- If the subsequent performance fails, the Customer may withdraw from the contract or reduce the remuneration irrespective of any claims for damages in accordance with Section 11.
- Claims for defects shall not be accepted in the case of insignificant impairment of usability, natural wear-and-tear or damage occurring after the transfer of risk as a result of incorrect or negligent handling, excessive strain, unsuitable operating materials, defective construction work, unsuitable building ground or due to special external influences that are not provided for in the contract, as well as in the case of non-reproducible software errors. If the Customer or third parties conduct improper modifications or repair work, no claims for defects shall be accepted for these or the resulting consequences.
- Claims by the Customer for expenses incurred for the purpose of subsequent performance, in particular transport, travel, labour and material costs, are excluded if the expenses increase because the delivery item has subsequently been moved to a location other than the Customer's branch office, unless the move corresponds to its intended use. We shall bear the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs (not: removal and installation costs), if a defect actually exists. However, if the Buyer's request for rectification of defects proves to be unjustified, we may demand reimbursement of the costs incurred from the Buyer.
- Recourse claims by the Customer against us in accordance with Sections 445a, 478 BGB (recourse by the entrepreneur) shall only exist insofar as the Customer has not entered into any agreements with its Customer that extend beyond the statutory claims for defects. No. 8 shall also apply mutatis mutandis to the scope of the Customer's right of recourse against us in accordance with Section 445a of the German Civil Code (BGB).
- Section 11 (Other claims for damages) applies to claims for damages. Any further claims or claims other than those provided for in this Section 8 by the Customer against us and our vicarious agents due to a material defect are excluded.

Section 9 Industrial property rights and copyrights; defects in title

- Unless otherwise agreed, we undertake to deliver the goods free of industrial property rights and copyrights of third parties (hereinafter referred to as "Property rights"). If a defect in title arises at the time of the passing of risk for which we are responsible in the form of an infringement of third party property rights, we shall provide the Customer with the following warranty within the period specified in Section 8 No. 2:
 - At our discretion and expense, we shall modify or replace the delivery item in such a way that no third party rights are infringed, but the delivery item continues to fulfil the contractually agreed functions, or we shall acquire a right of use for the delivery item in question from the owner of the relevant property rights. If we are unable to do so within a reasonable period of time, the Customer shall be entitled to withdraw from the contract or reduce the purchase price appropriately.
 - Our obligation to pay damages is governed by Section 11.
 - The Customer undertakes to inform us without delay in writing if a third party claims or asserts in or out of court that the delivery infringes a property right. Before recognising a claim for an alleged infringement of property rights, we must be given the opportunity to comment. We must, in particular, reserve the right to take all possible defensive measures and engage in settlement negotiations. We shall, therefore, be granted the authority, upon request, to conduct negotiations or legal proceedings with the third party at our own expense and on our own responsibility. We are, in particular, free to join a legal dispute. If the Customer culpably violates these obligations, it shall be liable to us for any resulting damage. If the Customer suspends use of the delivery for reasons of damage mitigation or other important reasons, it shall be under obligation to inform the third party that the suspension of use does not constitute an acknowledgement of an infringement of property rights.
- Claims by the Customer are excluded if it is responsible for the infringement of property rights.
- Claims by the Customer are also excluded if the infringement of property rights is caused by an application that we could not have foreseen or by the fact that the delivery has been modified by the Customer or used in conjunction with products not supplied by us.
- In the event of infringements of property rights, the provisions of Section 8 Nos. 4, 5 and 9 shall apply mutatis mutandis to the Customer's claims as provided for in No. 1a).
- In the event of other defects in title, the provisions of Section 8 shall apply accordingly.
- Any further claims or claims other than those provided for in this Section 9 by the Customer against us and our vicarious agents due to a legal defect are excluded.

Section 10 Impossibility; contract adjustment

- If delivery is impossible, the Customer shall be entitled to claim damages, unless we are not responsible for the impossibility. However, the Customer's claim for damages shall be limited to 10% of the value of that part of the delivery which cannot be put into useful operation due to the impossibility. This limitation shall not apply in cases of compulsory liability due to intent, gross negligence or loss of life, physical injury or detrimental effects on health. This shall not imply a change in the burden of proof to the detriment of the Customer. The Customer's right to withdraw from the contract remains unaffected.
- If unforeseeable events (force majeure, e.g. mobilisation, war, riots or similar events, e.g. strikes or lockouts) significantly alter the economic significance or content of the delivery or have a significant impact on our operations, the contract shall be adjusted appropriately in good faith. If this is not economically viable, we reserve the right to withdraw from the contract. If we wish to exercise this right of withdrawal, we are to inform the Customer without delay after becoming aware of the significance of the event, even if an extension of the delivery period had initially been agreed with the Customer.

Section 11 Other claims for damages

- Claims for damages and reimbursement of expenses by the Customer (hereinafter referred to as claims for damages), regardless of their legal basis, in particular due to breach of obligations resulting from the contractual relationship and from tort, are excluded.
- This does not apply in cases of compulsory liability, e.g. under the German Product Liability Act, in cases of intent, gross negligence, loss of life, physical injury or detrimental effects on health, or breach of essential contractual obligations. However, claims for damages for the breach of essential contractual obligations are limited to the foreseeable damage typical for this type of contract, unless intent or gross negligence or liability for loss of life, physical injury or detrimental effects on health apply. The above provisions do not imply a change in the burden of proof to the detriment of the Customer.
- Insofar as the Customer is entitled to claims for damages under this Section 11, these shall fall under the statute of limitations upon expiry of the limitation period applicable to claims for material defects in accordance with Section 8 No. 2. In the case of claims for damages under the German Product Liability Act, the statutory limitation provisions apply. This shall not apply if the application of the regular statutory limitation period (Sections 195, 199 BGB) leads to a shorter limitation period in individual cases.

Section 12 Conditions of return

We accept returns under the following conditions, subject to our prior approval:

- All parts must be returned in their original packaging, must be new, must correspond to the latest product version and must be in a "Saleable condition."
- Returns must be carriage paid. The Customer is responsible for the proper packaging of the returned parts. If returned parts are damaged due to improper packaging, they cannot be accepted.
- The returned parts must emanate exclusively from us. We do not sort boxes containing mixed products. Instead, they are returned to the Customer immediately and at the Customer's expense.
- Any items not listed in our current delivery programme cannot be returned or exchanged.
- Refunds or credits shall be issued following deduction of processing costs. These are 15% of the value of the goods to be taken back, at least, however, EUR 150.00. In addition, any freight costs incurred by us for the total delivery shall be deducted from the credit note.
- Granting of a return authorisation applies at our discretion.

Section 13 Tool costs

By paying a share of the costs for tools, the Customer does not acquire any rights to the tools themselves.

Section 14 Place of jurisdiction and applicable law

- Our registered office at D-79211 Denzlingen, Germany, shall be deemed the sole place of jurisdiction for all 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 or has no general place of jurisdiction in the Federal Republic of Germany. However, we are entitled to assert our claims at any other admissible place of jurisdiction.
- German law shall apply to the legal relationships arising in conjunction with this contract, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

Section 15 Binding nature of the contract

In the event that individual provisions of the contract with the Customer, including these General Terms and Conditions of Business, are or become invalid in full or in part, this shall not affect the validity of the remaining provisions. The wholly or partially invalid provision shall be replaced by a provision the economic success of which comes as close as possible to that intended by way of the invalid provision. This shall not apply if adherence to the contract would constitute an unreasonable hardship for one of the parties.