

1. General provisions

- 1.1 These General Terms and Conditions of Business ("T&Cs") of Mohr-Hebetechnik GmbH ("MHT") – which are also available at any time for download on MHT's website www.mohr-hebetechnik.de – apply to all deliveries and services ordered from MHT. Any conflicting objections on the part of the customer shall only be valid if MHT has acknowledged and confirmed them in writing – if applicable, following explicit negotiation with the customer. Any conditions of purchase of the customer shall only be binding upon us following explicit confirmation in writing.
- 1.2 If the customer acts as an entrepreneur within the meaning of Sec. 14 German Civil Code (*BGB*), it shall be entitled, but also obliged, to object to MHT's T&Cs and order confirmation in writing within 10 business days, insofar as it does not wish to accept them.

2. Quotation

- 2.1 All offers made to the customer by MHT are non-binding and subject to change without notice. Any supply agreement with the customer shall come into existence only through an explicit order confirmation being issued by MHT, marked as such, that is to be submitted at least in text form.
- 2.2 Documents forming part of an offer of MHT (such as illustrations, drawings and details of weights and measures) are only approximate unless they are explicitly designated as binding in the offer. Unless anything to the contrary has been notified or agreed, MHT shall have and retain the sole copyright and ownership in any drawings, plans and other documents of MHT. The documents may not be passed on to third parties or otherwise made available without MHT's consent.
- 2.3 If, when transmitting an offer to MHT's customer, it has explicitly been pointed out that MHT may claim costs in the event of the order not being carried out, MHT shall be entitled to claim reasonable costs, if MHT is not at fault for the contract not having come into existence.
- 2.5 Any assembly of equipment or individual pieces of machinery supplied to the customer is only to be carried out by MHT based on an explicit agreement. To that extent, the respective current terms and conditions of assembly of MHT shall apply.

3. Prices

- 3.1 Unless anything to the contrary has been agreed in advance, all prices specified in the offer and below shall apply ex works and exclusive of packaging and insurance. MHT's list prices valid on the day of delivery will be charged.
- 3.2 For specially-designed goods, MHT will calculate the prices in the offer based on material costs, wages and other general expenses. Should these costs increase by more than 3% by the time of delivery, MHT shall be entitled to charge the customer correspondingly higher prices, with which the customer already at this point declares its agreement.
- 3.4 MHT's authority to increase the price in accordance with Art. 3.3 above assumes that the amended calculation has been notified to the customer in advance. The customer shall have a right to object, limited to ten working days, if the increase in price can be culpably found to be within MHT's sphere of influence.

4. Payment and default

- 4.1 In the absence of any special agreement, payments shall be due and be made by the customer to MHT based on respective invoices duly issued by MHT, as follows:
 - a) One third of the total amount of the order specified in the order confirmation as a deposit within three working days of receipt of the order confirmation;
 - b) the second third of the total amount of the order specified in the order confirmation within three working days once the customer has been notified that the main components of the delivery are ready for shipping;
 - c) the entire residual amount within one month of the subject of the delivery having left MHT's factory or the customer having been notified of readiness for shipping.

The final invoice will be issued once the entire order has been completed.

- 4.2 Should the payment deadlines be exceeded, MHT shall, without issuing a further reminder, be entitled to claim interest on arrears from the customer pursuant to Sec. 286(3) sentence 1 German Civil Code (*BGB*). Notwithstanding the latter, MHT may, if payment is not received on time,
- a) charge the customer interest in the amount of nine percentage points above the Bundesbank's base rate annually as from the first reminder, without providing evidence of loss or damage. The assertion of further loss or damage, as well as the rights arising from Sec. 326 German Civil Code (*BGB*), is reserved.
 - b) Immediately assert all outstanding claims not yet due for payment arising from this or other transactions against the customer;
 - c) require the customer to provide appropriate security.
- 4.3 Either party shall only be entitled to assert rights of offsetting and/or retention if the respective counterclaims have been established with legal finality or are undisputed or have been recognised and bear a close synallagmatic relationship to the respective claim.
- 4.4 Should any circumstances or information indicate a deterioration in the customer's economic situation, MHT may, after advising the customer of the circumstances, at its option at any time require cash payment, advance payments or securities concurrently with services and assembly.

5. Delivery deadlines

- 5.1 Delivery times specified by MHT or agreed with the customer constitute approximate times, unless a binding fixed date has explicitly been agreed.
- 5.2 Deadlines shall commence on the day of receipt of the deposit detailed on the order confirmation in accordance with Art. 4.1 a) of these T&Cs, however not prior to providing the final documents, approvals, etc. to be procured by the customer. The delivery deadline shall be deemed to have been met if the item(s) to be delivered has/have left the factory prior to its expiry or the customer has been notified of readiness for shipping.
- 5.3 Force majeure shall – even in the case of a delivery date agreed or guaranteed within the meaning of Art. 5.1 of these T&Cs – entitle MHT to appropriately extend the delivery time. In case of doubt, the law shall apply. In particular hindrances due to official measures beyond our control, strikes, lock-outs and any other industrial action, as well as a delay in accessories being supplied to us, shall be deemed force majeure.
- 5.4 MHT shall not be obliged to adhere to the delivery time if the customer does not fulfil its contractual obligations in good time. Should the shipping be delayed at the customer's request or due to its conduct, MHT shall be authorised to assert its loss or damage arising therefrom (e.g. storage costs, machinery lying idle). For storage at MHT's factory, at least 0.5% of the amount of the invoice may be charged for each month.

6. Passing of risk

- 6.1 Should the goods be shipped to the customer at its own request, the risk of accidental loss or deterioration of the goods shall pass to the customer upon despatch of the goods to the customer, however, upon the goods leaving the factory/warehouse at the latest. The latter shall apply, irrespective of whether the goods are shipped from the place of fulfilment or who bears the freight charges.
- 6.2 MHT is not obliged to take out insurance for losses of any kind. Should MHT take out insurance at the customer's explicit request, the customer shall bear the costs.
- 6.3 Partial deliveries are permissible. The above terms and conditions shall apply to the latter analogously.

7. Reservation of ownership and collateral ownership

- 7.1 All items delivered shall remain collateral of MHT until such time as payment of all claims of MHT, inclusive of VAT, has been made in full, also in so far as the customer has already paid the price for other items delivered. In the case of unpaid invoices, the reservation of ownership shall serve to secure the outstanding balance. The latter shall in particular apply to delivery items that have undergone further processing, even if they have been integrated with products of other suppliers.

- 7.2 In the event of cessation of payment or following the institution of insolvency proceedings over the customer's assets, the latter shall, without MHT's express consent, no longer be authorised to operate the item delivered, alter it, process it or resell it. The customer shall, in such cases, be obliged to hand over the goods that are subject to reservation of ownership to MHT.
- 7.3 For as long as ownership has not yet passed to it, the customer shall be obliged to treat the item purchased with care. Should high quality goods be concerned, the customer shall, in particular, be obliged to adequately insure the latter against theft, fire and water damage at their reinstatement value, at its own expense. Should servicing and inspection work have to be carried out, the customer is to carry out the latter in good time at its own expense. As long as ownership has not yet passed to the customer, the customer shall be required to inform MHT in writing without delay if the item supplied has been pledged or is subjected to any other intervention by a third party. Should the third party not be in a position to reimburse MHT the judicial and extra-judicial expenses of an action pursuant to Sec. 771 German Code on Civil Procedure (ZPO), the customer shall be liable for any losses incurred by us.
- 7.4 In the event of extended reservation of ownership, the following shall apply:
- The customer shall be entitled to resell the goods that are subject to reservation of ownership in the normal course of business.
 - The customer already at this point assigns the claims it has against the purchaser arising from the resale of the reserved goods to MHT in the sum of the final amount of the invoice agreed with MHT (inclusive of VAT). Such assignment shall apply regardless of whether the item purchased has been resold without further processing or after further processing. MHT accepts the assignment.
 - The customer shall also remain entitled to collect on the receivable, even after it has been assigned. MHT's authorisation to collect the receivable itself shall not be affected thereby. MHT will, however, not collect on the receivable as long as the customer complies with its payment obligations arising from the sales proceeds collected, does not fall into arrears with payment, and in particular no request for the institution of insolvency proceedings has been filed or payment ceased.

8. Warranty and any other liability

- 8.1 MHT shall, subject to the exclusion of any further claims, be liable for any defects in the goods supplied by MHT, which also includes the lack of assured properties or non-compliance with any other warranties, as follows:
- Any warranty claims on the part of the customer require that the latter has fulfilled its obligations of examination and reporting the defect due under Sec. 377 German Commercial Code (*HGB*) in proper form.
 - Any claims by the customer concerning defects shall be statute-barred within twelve months. The statute of limitations shall commence upon the goods being delivered to the customer.
 - Should the goods supplied possess a defect that already existed as at the date of the passing of risk, in spite of all the care applied, MHT shall, at its option, subject to receiving a notice of defects in good time, either subsequently improve the goods or supply the customer with replacement goods. The customer is always to give MHT the opportunity to carry out subsequent fulfilment within a reasonable period of time. Any rights of recourse shall, without limitation, not be affected by the foregoing provision.
 - Should the subsequent fulfilment pursuant to Sec. 440 sentence 2 German Civil Code (*BGB*) fail, the customer may withdraw from the contract or claim a reduction of the remuneration.
 - Any claims on the part of the customer as a result of the expenditure incurred for the purpose of subsequent fulfilment, in particular the costs of transportation, toll charges and the costs of work and materials, shall be excluded in so far as the expenses are increased because the goods supplied by MHT have subsequently been brought to a different location from the site to which they were originally delivered, unless taking them there was in line with the intended use.
- 8.2 Unless any defects are based on wilful intent or gross negligence on the part of MHT or its vicarious agents, MHT's liability for defects shall be excluded in the following cases:
- In the event of unsuitable or improper use, defective installation or faulty commissioning of the goods by the customer or a third party, as well as in the case of natural wear and tear, loss or damage due to improper or negligent handling, excessive stress, chemical, electronic or electric influences, use of unsuitable operating resources or substitute materials, as well as due to defective construction work or an unsuitable foundation.

- b) If the customer does not give MHT the necessary time and opportunity to carry out the improvements and substitute deliveries which, according to its reasonable discretion, appear necessary.
 - c) If the customer makes any changes to the goods, dismantles them or repairs them without the consent of MHT.
- 8.3 MHT may refuse to remedy defects as long as the customer has not fulfilled its contractual obligations that are due arising from this or any other orders.
- 8.4 Should a complaint by the customer turn out to be justified, the repair or replacement delivery will be made ex MHT's factory. The costs of assembly and dismantling, shipping and provision of labour or devices are to be borne by the customer. The same applies if a complaint has to, of necessity, be dealt with outside the Federal Republic of Germany.
- 8.5 MHT shall, in the same way as for the delivery item, provide a warranty for a spare part, a repair or a new delivery. Any deadline for the liability for defects shall, however, not begin to run again, but shall be extended by the duration of the subsequent improvement work or the new delivery.
- 8.6 Any other claims on the part of the customer due to any defects in the goods supplied by MHT, in particular in regard to withdrawal from the contract, a reduction in the price or payment of damages, shall be excluded unless anything to the contrary has been determined in these T&Cs.

9. Withdrawal from the agreement

- 9.1 The customer may withdraw from the contract if
- a) the entire service prior to passing of risk definitely becomes impossible for MHT;
 - b) MHT is in default with delivery and, in spite of the customer setting us a reasonable grace period, with its explicit declaration that, following the expiry of such deadline, it will refuse to accept the work, we culpably fail to comply with the subsequent deadline;
 - c) in spite of a reasonable grace period being set, MHT culpably fails to fulfil its subsequent improvement obligation. The reasonable grace period shall not commence prior to the defect requiring subsequent improvement having been recognised by MHT or proven to MHT.

Any further claims on the part of the customer, in particular in regard to termination or a reduction in the price, or compensation for loss or damage of any kind, are excluded. This exclusion shall also apply to the infringement of contractual secondary obligations or fault on the part of MHT when concluding the agreement, insofar as neither MHT nor its vicarious agents intentionally or grossly negligently infringe their obligations.

- 9.2 Should a delay in providing a delivery or service occur on the part of MHT during the delay in acceptance or through the fault of the customer, the latter shall still be obliged to make payment.

10. Final provisions

- 10.1 The limitations of liability, disclaimers and/or exclusions of claims on the part of the customer laid down in these T&Cs shall not apply to any loss or damage arising from injury to life, limb or health based on a negligent breach of duty on the part of MHT or wilful or negligent breach of duty on the part of a vicarious agent of MHT, or to any other loss or damage based on grossly negligent breach of duty on the part of MHT or wilful or grossly negligent breach of duty on the part of a vicarious agent of MHT. The statutory provisions shall apply in such cases, in particular the statutory periods of limitation.
- 10.2 The place of fulfilment for any claims and obligations arising from the contractual relationship between MHT and the customer shall be MHT's registered office in Horst/Holstein.
- 10.3 Should the customer be acting as a trader, a legal entity governed by public law or a special fund governed by public law, Horst/Holstein is also agreed upon as the place of jurisdiction for any legal disputes arising from any contractual relationships between MHT and the customer, unless a mandatory statutory provision contradicts the latter.
- 10.4 The contractual relationship including the terms and conditions of business, between MHT and the customer, shall be governed by the law of the Federal Republic of Germany exclusively, even if the customer has its registered office abroad and/or if export business is concerned.

10.5 Should no provision have been agreed in these General Terms and Conditions of Business and/or any other agreements, the statutory provisions shall apply. Should a provision of these terms and conditions or a provision of any other agreement be or become invalid, the validity of any other provisions or agreements shall not be affected thereby. Any contractual loophole which may have arisen due to an invalid provision is to be closed by way of supplementary interpretation of the agreement.

Mohr-Hebetechnik GmbH
Horst/ Holstein, November 2015