

General terms and conditions of sale and delivery of MOHR-HEBETECHNIK GMBH, Max-Planck-Str. 2, 25358 Horst/Holstein

1. Scope of applicability

1.1 The following terms and conditions of sale and delivery, which you (hereinafter referred to as the “customer”) acknowledge through your order, apply for the business relationship between the customer and MOHR-HEBETECHNIK GMBH, Max-Planck-Str. 2, 25358 Horst / Holstein (hereinafter referred to as “MHT”).

1.2 Only companies can be customers. A company is any natural or legal person or a partnership with legal capacity which, when concluding a legal transaction, acts in performance of its commercial or independent professional activities (Article 14 of the German Civil Code (*Bürgerliches Gesetzbuch – BGB*)).

1.3 Insofar as the applicability of individual clauses of Incoterms (the version effective upon the conclusion of the contract) is agreed between the parties upon the conclusion of the contract, in the event of contradictions between the agreed clauses of the current Incoterms that have thus become part of the content of the contract and the provisions of these general terms and conditions of business the clauses of Incoterms shall take precedence.

2. Conclusion of the contract/offer documents/samples and production resources

2.1 Offers of MHT are non-binding and subject to confirmation. A contract between MHT and the customer only arises if MHT has confirmed the customer’s order in writing (email is sufficient).

2.2 The delivery to be provided by MHT is subject to the condition of full and timely delivery by our own suppliers. If the ordered goods are no longer available and/or can only be obtained with unreasonable expenses, MHT shall have the right to rescind the contract. In such a situation, MHT shall promptly notify the customer of the unavailability and refund it any payments received for the relevant goods. Any liability of MHT for wilful misconduct or negligence in accordance with the liability provisions under section 13 of these GTC remains unaffected by this. A rescission right shall also exist if, after the conclusion of the contract, MHT learns that the customer objectively lacks creditworthiness and MHT’s payment claims are jeopardised as a result.

2.3 In the event that planning services are provided by MHT, MHT shall be entitled to the sole ownership title and copyright to the plans, images, drawings, calculations and other documents. Insofar as agreed, MHT shall grant the customer a simple, non-exclusive and non-transferable usage right for any plans for the contractually envisaged purpose against payment of the fee payable for this.

2.4 The costs for the manufacture of samples and production resources (particularly appliances, tools, etc.) will be separately invoiced unless agreed otherwise. This also applies for samples and production resources which have to be replaced due to wear and tear. The costs for the maintenance and proper safekeeping of the samples and production resources and the risk of damage or destruction shall be borne by MHT. Unless otherwise agreed, all samples and production resources shall remain MHT’s property, even if the customer pays their manufacturing costs.

2.5 The language of the contract is German, unless agreed otherwise on the basis of the order confirmation.

3. Delivery/deviations/delivery on call/cross-border transactions

3.1 If delivery of the goods by MHT has been agreed, unless agreed otherwise in writing it shall only include one-off delivery ex works.

3.2 MHT shall have the right to carry out partial deliveries for a justified reason, insofar as this is reasonable for the customer.

3.3 Data provided by MHT on the subject of the service or delivery (e.g. images, dimensions, weights or other data) is only approximate, unless usability for the contractually envisaged purpose requires precise conformity and unless otherwise agreed upon the conclusion of the contract. That data does not constitute guaranteed characteristics, but merely descriptions or markings of the delivery or service. Customary deviations and differences that represent technical improvements or occur based on legal regulations and/or replacement with equivalent products shall be permitted provided that usability for the contractually envisaged purpose is not affected.

3.4 With regard to contracts for delivery on call, unless agreed otherwise MHT must be notified of binding quantities by call-off at least six weeks prior to the delivery date. Any additional costs caused by the customer through a late call-off or subsequent changes of the call-off with regard to time or quantity shall be borne by the customer.

4. Change requests

4.1 Until performances have been handed over to the customer it shall have the right to submit change proposals in writing with respect to the contractually agreed performance requirements (hereinafter referred to as "change requests"). If the customer requests changes, MHT shall review them in accordance with the following provisions and submit an offer to the customer for the possible implementation of the change. If the customer's change requests lead to a change of the handling expenses and a change of the originally agreed deadlines, MHT and the customer shall negotiate an appropriate additional contract that takes those changes into account. Without such a new contract, MHT shall not have the right to carry out the changes. If MHT recognises that the work to be carried out between the receipt of the change request and the conclusion of the relevant additional contract will not be usable if the change is carried out, it shall notify the customer to that effect. If, in such a situation, the customer commissions MHT to implement or verify the change request, MHT shall have the right to otherwise suspend further fulfilment of the order. Any resulting additional expenses shall be borne by the customer. Deadlines shall be appropriately extended.

4.2 If the customer suspends the cooperation during the production period for samples or production resources or terminates it without having a legal right to do so through termination for good cause or due to rescission, all the manufacturing costs with regard to the samples or production resources incurred up to that point shall be borne by customer. This shall also apply if samples or production resources are ordered by MHT from third parties (e.g. subcontractors/suppliers).

5. Cooperation obligations

The customer must fulfil the necessary and reasonable cooperation obligations without any special remuneration, as planned in technical and qualitative terms and in terms of schedule and organisation. The customer's cooperation obligations are essential obligations. If the customer fails to fulfil its performance and cooperation obligations fully, correctly or in good time, any agreed deadlines shall be extended for MHT accordingly.

In particular, the customer shall:

- grant MHT access to operating areas where work is to be carried out,
- provide MHT with technically suitable personnel for the necessary tests in connection with the acceptance in good time and in a sufficient number,
- at MHT's request provide it free of charge with auxiliary and operating materials such as electricity or compressed air,

- provide MHT with the necessary technical documents,
- appoint a technically competent contact person for MHT.

6. Transfer of risk

Upon the handover of the goods to the forwarder, carrier or other person designated to carry out the shipment, the risk shall transfer to the customer. If the shipment or handover is delayed at the customer's request or due to a circumstance for whose cause the customer is responsible, the risk shall transfer to the customer upon the notification that the goods are ready to be shipped.

7. Acceptance of work performances

7.1 Insofar as MHT provides work performances, it shall hand over the work to the customer once it has been completed.

7.2 The customer shall be obliged to accept the work provided it has been produced in accordance with the contract and unless acceptance is excluded based on the quality/characteristics of the work. Acceptance may not be refused due to insignificant defects.

7.3 If the customer fails to accept the work within a reasonable time limit set for it by MHT, even though it is obliged to do so, this shall be deemed to constitute acceptance. Acceptance shall also be deemed to have occurred if the customer explicitly declares the acceptance of the performance being the subject of the contract and/or has used the performance being the subject of the contract without expressing any explicit written reservations.

7.4 Refusal of acceptance is only possible if the performance handed over by MHT deviates from the contractually agreed performance in significant respects. In the event of rejection due to existing serious deviations from the contractually agreed performances, MHT shall eliminate the deviations within a reasonable period after being notified by the customer. Following the elimination of the deviations, the acceptance shall be carried out again in accordance with the above provisions.

8. Prices/payment/setting off rights and rights of retention/delivery costs

8.1 As a rule, the prices specified by MHT in its offers are net prices and should be understood as being subject to the addition of the currently applicable statutory VAT. Unless otherwise agreed, the prices do not include packaging, pallet costs, freight charges, postal charges, customs duties, insurance or other shipping costs. Unless otherwise stated in the order confirmation, MHT's prices should be deemed "ex works unpacked."

8.2 The payment options and arrangements agreed upon the conclusion of the contract apply, including any prepayment or cash on delivery arrangements. Unless agreed otherwise, payments must be made promptly after the receipt of the invoice without any deductions.

8.3 The customer shall only have a set off right if its counterclaims are undisputed or have been established with legally binding effect or are at least ready for a decision. Rights of retention may only be asserted due to counterclaims stemming from the same contractual relationship.

8.4 The customer agrees to receive an electronically transmitted invoice.

9. Warranty

9.1 Warranty claims of the customer are conditional on the fact that the customer promptly and carefully inspects the goods after handover and promptly notifies MHT in writing of any defects after handover. Any defects which are concealed upon delivery must be promptly reported by the customer in writing after their discovery.

9.2 If the customer is entitled to claims due to a defect, according to its choice MHT shall have the right to either eliminate the defect at no cost for the customer or deliver defect-free goods as a replacement.

9.3 If the supplementary performance fails or is unreasonable for the customer or MHT refuses the supplementary performance, in the case of purchase contracts the customer shall have the right to rescind the contract, reduce the remuneration or demand compensation for losses in lieu of the performance or compensation for its needless expenses. In the case of work contracts, if the supplementary performance fails or is unreasonable for the customer or MHT refuses the supplementary performance, the customer shall have the right to eliminate the defect itself and demand compensation for the necessary expenses, rescind the contract, reduce the remuneration or demand compensation for losses in lieu of the performance or compensation for its needless expenses. §13 remains unaffected by this.

9.4 The warranty shall be excluded if, without explicit written prior consent of MHT, the customer makes changes to the goods, unless the customer can provide proof that the changes are unrelated to the identified material defect and/or do not significantly impede an analysis of the material defect.

9.5 Warranty claims shall expire by time limitation within 12 months from the moment when risk is transferred or from acceptance in the case of work performances. This does not apply in the event of recourse against the supplier in accordance with Articles 478 and 479 BGB and/or if the relevant defect has been fraudulently concealed and/or if MHT has provided special guarantees in the form of a manufacturer's warranty.

9.6 The above-mentioned shortening of the time limitation period also does not apply for claims for compensation for losses for which MHT is liable in accordance with the provisions of section 13 below.

10. Product monitoring obligations

The customer must fulfil all its product monitoring and product warning obligations, as well as statutory product restrictions, and promptly inform MHT in writing if it comes to light that a product is giving rise to risks. In the event that legal action is taken against MHT by third parties due to a breach of product monitoring and/or product warning obligations and the liability is attributable to a breach of the product monitoring and product warning obligations by the customer, the customer shall indemnify MHT against any third-party claims, including any costs of a legal defence.

11. Product-specific special characteristics /deviations/trade practices/customer obligations

11.1 Minor deviations of the manufactured and delivered products from the order are not deemed to be defects in the cases described below and therefore cannot be the subject of a complaint:

- deviations due to the quality/characteristics of the raw materials

11.2 The customer must inspect the ordered goods itself to ensure they are fit for its purposes. Unless explicitly agreed otherwise, recommendations for use and suggestions of MHT's personnel are non-binding and do not constitute guarantees for the fitness of the goods for use for the customer's purposes. They shall not exempt the customer from its own inspections with regard to the fitness of the goods for its purposes.

12. Securing retention of title

12.1 MHT shall retain the ownership title to the goods until it has received all payments stemming from the business relationship with the customer. In the event of a breach of contract by the customer, particularly in the event of a delay in making payment, MHT shall have the right to take the goods back. MHT taking the goods back shall constitute rescission of the contract. After taking back the goods, MHT shall be authorised to utilise them. The proceeds of such utilisation shall be credited to the customer's liabilities less reasonable utilisation costs.

12.2 The customer must handle the goods with care. In particular, it must sufficiently insure them at its own expense at replacement value against fire and water damage and theft.

12.3 In the event of attachments or other interventions by third parties, the customer must promptly notify MHT in writing so that MHT can bring an action in accordance with Article 771 of the German Code of Civil Procedure (*Zivilprozessordnung – ZPO*). Insofar as the third party is unable to reimburse MHT for the court and out-of-court costs of an action in accordance with Article 771 ZPO, the customer shall be liable for the losses incurred by MHT.

12.4 The customer shall have the right to resell the goods in the course of normal business operations. However, it shall assign to MHT already upon the respective conclusion of the contract all receivables, in the amount of the final invoice amount (including VAT) of MHT's claim, that arise for it due to the resale against its customers or third parties, irrespective of whether the goods are resold without or after processing. The customer shall remain authorised to collect that claim also after the assignment. MHT's authorisation to collect the claim itself remains unaffected by this. However, MHT undertakes not to collect the claim as long as the customer fulfils its payment obligations from the collected proceeds, does not delay in making payment and, in particular, does not file an application for the initiation of composition or insolvency proceedings and suspension of payment has not occurred. If, however, the above circumstances occur MHT will be able to demand that the customer inform it of the assigned receivables and the debtors, provide it with all the necessary information for collection, issue it with all the related documents and notify the debtors (third parties) of the assignment.

12.5 The processing or alteration of the goods by the customer shall always be carried out for MHT. If the goods are processed with other items that do not belong to MHT, MHT shall acquire a co-ownership title to the new item according to the ratio of the value of the goods (final invoice amount, including VAT) to the other processed items at the time of the processing. Otherwise, for the item that arises through the processing the same shall apply as for the delivered goods subject to retention of ownership.

12.6 If the goods are inseparably combined with other items that do not belong to MHT, MHT shall acquire a co-ownership title to the new item according to the ratio of the value of the goods (final invoice amount, including VAT) to the other combined items at the time of the combining. If such combining occurs in such a manner that the customer's item should be deemed the main item, it is deemed agreed that the customer shall transfer a pro rata co-ownership title to MHT. The customer shall safekeep the thus created sole property or co-owned property for MHT.

12.7 MHT undertakes to release the security to which it is entitled at the customer's request insofar as the realisable value of the security exceeds the claims to be secured by more than 10%; MHT shall select the security to be released.

13. Liability

13.1 MHT shall be liable without limitation for any losses caused by MHT, its employees or vicarious agents either intentionally or due to gross negligence, in the event of fraudulent concealment of defects, where a guarantee is provided for quality/characteristics and for any losses stemming from loss of life or injury to the body or health.

13.2 For other losses MHT shall only be liable insofar as an obligation is breached whose fulfilment enables the contract to be correctly performed at all and upon whose fulfilment the party can generally rely (key obligation) and insofar as the losses are typical and foreseeable based on the contractual use of the performances. Any liability under the German Product Liability Act (*Produkthaftungsgesetz*) remains unaffected. Any liability of MHT exceeding the scope outlined above is excluded.

14. Third-party protective rights

The customer warrants that documents, samples, models or templates delivered by it (hereinafter referred to jointly as "templates") do not breach any statutory requirements or third-party rights, particularly intellectual property rights, copyrights, trademark rights, industrial designs, patents, etc. (hereinafter referred to jointly as "protective rights"). The customer shall indemnify MHT against all claims of third-parties due to infringement of protective rights asserted by them against MHT in connection with the use of templates delivered by the customer. This includes, in particular, the

costs of a defence and the costs of legal proceedings, as well as other losses. MHT shall: promptly inform the customer if third parties assert such claims. The above indemnification agreement shall not apply insofar as the customer is not culpable.

15. Confidentiality

Insofar as information is transmitted within the framework of the business relationship (particularly documents, samples, models or data), they must be kept confidential by the contract partners and used exclusively for the fulfilment of the objective of the contract. This non-disclosure agreement does not apply for information which is already publicly known as of the time of provision or was already known to the party upon receipt or which the party had already lawfully received from a third party in a lawful manner at the time of its provision.

16. Call off and long-term contracts/price adjustment

MHT reserves the right, where costs increase (production costs, personnel costs, material costs) to change the agreed prices and/or their structure at any time by way of a written notification, giving eight weeks' notice, effective at the end of a month (adjustment notice period). If the resulting increase in the price amounts to more than 5 per cent of the existing price within a contract year, the customer shall have the right to terminate the contractual relationship, giving one calendar month's notice, effective as of the end of the adjustment notice period.

17. Events of force majeure

Neither of the parties shall be obliged to fulfil their contractual obligations if an event of force majeure occurs and for the duration thereof. In particular, the following circumstances are deemed an event of force majeure in this sense:

- fire/explosions/flooding for which the party is not responsible,
- war, revolt, blockades, embargoes, terrorist attacks
- industrial disputes lasting more than six weeks that are not culpably caused by the party,
- technical problems affecting the Internet beyond the control of a party; this shall not apply if and insofar as the provider also provides the telecommunications service.

Each party must promptly inform the other party in writing of the occurrence of an event of force majeure and the end thereof.

18. Final provisions

18.1 MHT does not recognise any general terms and conditions of business or contractual terms and conditions of the customer that are contrary to these general terms and conditions of sale and delivery or that differ from them, unless their applicability is explicitly agreed in writing. These general terms and conditions of sale and delivery shall also apply if MHT carries out the delivery to the customer without any reservations in the knowledge of terms and conditions of the customer being contrary to or differing from these terms and conditions of sale.

18.2 In their capacity as traders, the parties agree that for all disputes that arise in connection with the performance of this contract the exclusive place of jurisdiction is MHT's registered office.

18.3 The business relationship and all legal issues resulting from it are exclusively subject to the laws of the Federal Republic of Germany, to the exclusion of the UN Convention on Contracts for the International Sale of Goods.