

# GENERAL SALES CONDITIONS OF ANDREAS HOFER HOCHDRUCKTECHNIK GMBH

The following sales conditions, which apply to all deliveries by Andreas Hofer Hochdrucktechnik GmbH (hereinafter also: "Supplier"), are based on the "VDMA conditions for the supply of machinery for domestic business" adapted with regard to peculiarities of the delivery objects and the extension of their validity to international business.

## To be applied to

1. a person or a private company with legal capacity, who exercises their commercial or self-employed professional activity (business person) when concluding the contract;
2. public sector corporations or a public law special fund.

## I. General

1. All deliveries and services are based exclusively on these conditions; any separate contractual agreements require, as well as the removal of this point, the written form. The sales partner's (hereinafter also: "Ordering Party") purchase conditions do not become (even through acceptance of the order) part of the contract.
2. A contract comes into being – if no other particular agreement is reached – by means of the Supplier's written order confirmation. The Supplier reserves property and copy rights on samples, cost estimates, drawings and similar information of a physical and immaterial nature – also in electronic form; they must not be made accessible to third parties. The Supplier undertakes to only make information and documents, identified as confidential by the Ordering Party, accessible to third parties with its consent.

## II. Price and payment

1. Unless otherwise agreed, prices are ex works including loading at the factory, but excluding packaging. VAT at the applicable rate is added to the prices.
2. Unless otherwise agreed, payment shall be made to the Supplier's account without any deductions, according to the following schedule:  
35% deposit after receipt of the order confirmation  
50% as soon as the Ordering Party is notified that the main components are ready for despatch, and the remaining amount within one month after the transfer of risk.
3. The Ordering Party is only entitled to withhold payments or to offset them with counterclaims as long as its counterclaims are undisputed or legally established.

## III. Lead time, delivery delay

1. The lead time results from the agreements between the contractual parties. Its adherence by the Supplier requires that all commercial and technical issues are clarified between the contractual parties and that the Ordering Party has fulfilled all its obligations, such as providing the necessary official certificates or approvals and the payment of a deposit. If this is not the case, then the lead time is extended accordingly.
2. The adherence of the lead time is subject to the correct and punctual supply to the Supplier itself.  
The Supplier will advise of any apparent delays as soon as possible.
3. The lead time is adhered to if the delivery object has left the factory before the lead time expires or notification is given that it is ready for despatch.
4. If despatch or inspection of the delivery object is delayed for reasons for which the Ordering Party is responsible, then it is charged with the costs incurred by the Supplier due to the delay, starting 14 days after notification that the delivery object is ready to be despatched or inspected.
5. If the non-adherence of the lead time is down to force majeure, industrial action or other events outside the Supplier's sphere of influence, then the lead time is extended accordingly. The Supplier will notify the Ordering Party about the start and end of such circumstances as soon as possible.
6. The Ordering Party can withdraw from the contract without setting a notice period if it finally becomes impossible for the Supplier to provide full performance before the transfer of risk.

Furthermore, the Ordering Party can withdraw from the contract if it becomes impossible to carry out a part of the delivery on an order and it is not interested in the possible part delivery. If the Ordering Party is interested in the possible part delivery, then the Ordering Party has to pay the contract price applicable to the part delivery and has a right to provision of the possible part delivery. The same applies in case of the Supplier's incapacity. Section VII. 2. applies for the rest.

If the impossibility or the incapacity arises during the Ordering Party's delay in acceptance or if the Ordering Party is solely or largely responsible for these circumstances, it remains obliged to provide consideration.

7. If the Supplier falls behind and the Ordering Party incurs a loss from this, then it is entitled to demand a flat rate of compensation for delay. Compensation for every full week of delay amounts to 0.5%, but no more than 5% in total of the value of the part of the delivery that cannot be used on time or in accordance with the contract as a result of the delay.
8. If the Ordering Party sets the Supplier an appropriate period for performance after it is due and if the period is not adhered to or if setting a period is dispensable according to legal requirements, then the Ordering

Party is entitled within the law to rescission. It undertakes, at the Supplier's request, to state within an appropriate period whether it will make use of its right of rescission.

9. Any other claims arising from delivery delay are governed exclusively according to Section VII. 2 of these conditions.

## IV. Transfer of risk, inspection

1. The risk is transferred to the Ordering Party when the delivery object has left the factory, and in fact even if partial deliveries are made or the Supplier has assumed other services, e.g. the delivery costs or delivery and installation. If an inspection must take place, this is decisive for the transfer of risk. It must be carried out without delay on the inspection date, or alternatively after the Supplier's notification about the goods being ready for inspection. The Ordering Party may not reject acceptance of the delivery object if there is an insignificant defect.
2. If despatch or inspection is delayed or stopped as the result of circumstances that are not attributable to the Supplier, the risk is transferred to the Ordering Party from the day that notification is given that the delivery object is ready for despatch or inspection. The Supplier undertakes to take out insurance, which the Ordering Party demands, at the latter's cost.
3. Part deliveries are permitted if reasonable for the Ordering Party.

## V. Retention of title

1. The Supplier retains the ownership of the delivery object until receipt of all payments owed by the Ordering Party – even for any additional ancillary services due – from the delivery contract. The delivery object accordingly remains the sole property of the Supplier until complete satisfaction of all secured payment claims. The delivery object and the objects covered by the retention of title taking their place according to this Point V. are hereinafter also referred to as "goods under retention of title".
2. The Supplier is entitled, but not obliged, to insure the delivery object against theft, breakage, fire, water and other damage at the Ordering Party's cost, as long as the Ordering Party does not provide evidence of taking out insurance itself. The Ordering Party's liability towards the Supplier for damages, deterioration or the loss of the goods under retention of title remains unaffected by this.
3. Only after prior written consent from the Supplier and even then only until the enforcement event takes effect according to Point 9 below, is the Ordering Party entitled to sell, process and combine the goods under retention of title in the normal course of business. Pledging or assigning security on goods under retention of title is not permitted in any case.

There is not deemed to be a sale in the normal course of business, among other things, if the assignment in advance according to Point 5 below in favour of the Supplier – for whatever reason – is ineffective or the Supplier does not become the owner of the Ordering Party's receivables from the resale for any other reason.

4. If the goods under retention of title are processed by the Ordering Party, whether legitimately or not, then it is agreed that processing is done in the name of and for the account of the Supplier as the manufacturer and the Supplier immediately acquires the ownership or – if processing takes place using materials from several owners or the value of the processed article is higher than the value of the goods under retention of title – the joint ownership (fractional ownership) of the newly created article in proportion of the value of the goods under retention of title to the value of the newly created article. In the event that no such acquisition of ownership for the Supplier occurs, the Ordering Party here and now transfers its future ownership or – in the ratio mentioned in Sentence 1 – joint ownership of the newly created article to the Supplier for security purposes.

If the goods under retention of title are combined or inseparably mixed with other items to make a uniform article and if one of the other items is seen as the main item, then the Supplier transfers, if the main item belongs to it, joint ownership of the uniform article to the Ordering Party pro rata in the ratio mentioned in Sentence 1.

5. If the goods under retention of title are resold – whether legitimately or not – the Ordering Party here and now assigns the receivables from the buyer arising from this – in case of joint ownership of the goods under retention of title pro rata according to the joint ownership share – or receivables from a third party arising from this to the Supplier – and in fact irrespective of whether the goods under retention of title have been resold without or after being processed. The same applies to other receivables from the buyer or third party, which take the place of the goods under retention of title or arise otherwise with regard to the goods under retention of title, such as insurance claims or claims from unauthorised handling in case of loss or damage. The Supplier authorises the Ordering Party, until retracted, to collect the receivables assigned to the Supplier in its own name. The Supplier's authorisation to collect the receivables itself remains unaffected by the collection authorisation. The Supplier undertakes, however, not to

collect the receivables as long as the Ordering Party properly meets its payment obligations and the payment claims secured by the goods under retention of title are also not otherwise at risk. If the collection authorisation is revoked, the Ordering Party is obliged to provide information about the receivables assigned for security purposes and about the debtors, to provide the necessary information to enforce the receivables and to present the paperwork that serves as evidence for the receivables, if they are in the Ordering Party's possession or it can get hold of these, and also obliged to notify the debtors of the assignment in writing.

6. The Ordering Party moreover assigns here and now, for security purposes, the receivables to the Supplier that accrue to it from a third party by combining the goods under retention of title with a piece of land.
7. If third parties seize the goods under retention of title, e.g. through being pledged, the Ordering Party will immediately point out the ownership of the Supplier to them and notify the Supplier about this to enable it to assert its rights.
8. The Supplier undertakes to release the securities to which it is entitled at the Ordering Party request if its market value makes up 150 % or more of the secured receivables.
9. If the Supplier withdraws from the contract in case the Ordering Party acts contrary to the contract (enforcement act), particularly in case of payment delay, the goods under retention of title shall be surrendered to it immediately. The power of disposal according to Point 3 above and the collection authorisation according to Point 5 above lapse in this case, without the need for revocation in each case. From the point that the withdrawal becomes effective, the Ordering Party is no longer entitled to process, combine, mix, dispose of or otherwise use or apply the goods under retention of title.
10. Irrespective of the requirements according to Point 9 above being in force, an application to open insolvency proceedings against the Ordering Party's assets entitles the Supplier to withdraw from the contract and to revoke the power of disposal according to Point 3 above and the collection authorisation according to Point 5 above. In this case the Ordering Party undertakes to surrender the goods under retention of title to the Supplier immediately.

#### VI. Warranty claims

The Ordering Party is obliged to examine the delivery object immediately for any defects and to notify any such defects without delay; § 377 HGB [German Commercial Code] applies. Insofar as the assumption of approval does not intervene according to this regulation, the Supplier is liable for defects of quality and title under exclusion of further claims – subject to Section VII – as follows:

##### Defects of quality

1. All those parts shall be repaired or replaced without defects, as the Supplier sees fit, which turn out to be faulty due to a factor present when the risk is transferred. The discovery of such defects shall be reported to the Supplier immediately in writing. Replaced parts become the property of the Supplier.
2. To perform all the arising repairs and replacement deliveries necessary on the part of the Supplier, the Ordering Party has to give the required time and opportunity after agreement with the Supplier. The Ordering Party, within its capabilities, supports the Supplier as far as possible when it comes to organising and carrying out the repair in its factory; otherwise the Supplier is released from the liability for the consequences arising from this. Only in urgent cases of danger to operational safety or to prevent disproportionately large losses, whereby the Supplier shall be advised immediately and, as far as possible, before carrying out and instructing self-remedy, does the Ordering Party have the right to rectify the defect itself or by third parties and to demand reimbursement from the Supplier of the necessary expenses.
3. Of the immediate costs incurred by the repair or replacement delivery – as long as the complaint turns out to be legitimate – the Supplier bears the costs of the replacement item including delivery. It also bears the costs of dismantling and installation, as well as the costs of any necessary provision of fitters and support staff required including travel costs, as long as this does not place any disproportionate burden on the Supplier.
4. The Ordering Party has a right within the law to withdraw from the contract if the Supplier allows a suitable period set for the repair or replacement delivery due to defect of quality to elapse in vain or if setting a period is dispensable according to legal requirements. If there is only one insignificant defect, the Ordering Party is only entitled to a reduction of the contract price.  
Any other claims are governed exclusively according to Section VII. 2 of these conditions.
5. No liability is assumed particularly in the following cases: unsuitable or improper use, faulty assembly or installation by the Ordering Party or third parties, natural wear, faulty or negligent handling, incorrect maintenance, unsuitable operating equipment, inadequate construction work, unsuitable foundations, chemical, electrochemical or electrical influences – as long as the Supplier is not responsible for them.
6. If the Ordering Party or a third party carries out repairs improperly, there is no liability on the Supplier's part for the resulting consequences. The same applies to changes to the delivery object made without prior consent from the Supplier.

##### Defects of title

7. If the use of the delivery object leads to the breach of industrial property rights or copyrights in Germany or in the country in which the delivery object is to be delivered according to the contractual agreements, as a matter of

principle the Supplier will provide the Ordering Party with the right for further use at its own costs or modify the delivery object for the Ordering Party in such a way as to avoid the breach of property rights.

If this is not possible at commercially reasonable conditions or within a reasonable period, the Ordering Party is entitled to withdraw from the contract. The Supplier is also entitled to withdraw from the contract under the above-mentioned conditions.

Furthermore, the Supplier shall indemnify the Ordering Party from undisputed or legally established claims from the affected holders of property rights.

8. The Supplier's obligations mentioned in Section VI. 7 for the breach of property rights or copyright are final subject to Section VII. 2.

They exist only if

- the Ordering Party instructs the Supplier about enforced breaches of property rights or copyrights without delay,
- the Ordering Party supports the Supplier to an appropriate extent when it comes to defending the asserted claims or enables the Supplier to implement the modification measures in accordance with Section VI. 7,
- all defence measures including out of court settlements are reserved for the Supplier, and the Ordering Party in particular does not make any compromise or acknowledge claims without having acquired the Supplier's prior written consent for this purpose,
- the defect of title is not based on an instruction from the Ordering Party and
- the breach of rights was not caused by the fact that the Ordering Party changed the delivery object on its own authority or used it in a way not agreed in the contract.

#### VII. Supplier's liability, exclusion of liability

1. Subject to other terms in these sale conditions, the Supplier is liable under the exclusion of further claims by the Ordering Party as follows:
2. The Supplier is liable, for whatever legal reasons, only
  - a) in case of malicious intent,
  - b) in case of gross negligence,
  - c) if responsible for injury to life, body or health,
  - d) in case of defects, which it fraudulently kept quiet,
  - e) as part of a guarantee promise,
  - f) in case of defects pertaining to the delivery object, as long as it is liable for personal injury or material damage to commercially used objects according to the product liability act.

If it is responsible for breaching essential contractual obligations (obligations, whose fulfilment allow the contract to be properly implemented in the first place and in whose compliance the Ordering Party regularly trusts and may trust), the Supplier is also liable in case of simple negligence – nevertheless limited to reasonably foreseeable damage that is typical of the contract.

Any liability of the Supplier is excluded for the rest.

#### VIII. Limitation period

All the Ordering Party's claims, on whatever legal reasons they are based, lapse in 12 months. For compensation claims according to Section VII. 2a-d, and f, the relevant legal periods apply. These also apply to defects on a building or to delivery objects, which according to their usual method of application were used for a building and caused its defectiveness.

#### IX. Software utilisation

If software is included in the scope of delivery, under the deferred condition of the performance of all payments owed by the Ordering Party – including for any additionally owed ancillary services – the Ordering Party is granted a non-exclusive right from the delivery contract to use the software supplied including its documentation. It is surrendered for use on the delivery object for which it is intended. Using the software on more than one system is prohibited.

The Ordering Party may only copy, revise or translate the software or change from the object code into the source code within the legally permitted scope (§§ 69 a et seq. UrhG [Copyright Law]).

The Ordering Party undertakes not to remove manufacturer's details – particularly copyright notices – or to change them without the Supplier's prior express consent.

All other rights to the software and documentation including the copies remain with the Supplier or with the software Supplier. Giving away sub-licences is not permitted.

#### X. Applicable law, jurisdiction

1. The law of the Federal Republic of Germany under exclusion of the UN sales law (CISG) applies exclusively to all legal relationships between the Supplier and the Ordering Party.
2. As far as legally permitted, the exclusive place of jurisdiction is the court responsible for the Supplier's place of business. The Supplier is entitled, however, to take legal action at the Ordering Party's main place of business.
3. Delivery by letter adequately fulfils the written form according to this contract. Fax or email in advance is possible. The date of receipt of the letter alone is valid for the compliance of limitation periods.