

Terms and Conditions of Delivery and Sale of Hoftex Group AG

Last updated: January 2022

1. Scope

1.1. These Terms and Conditions of Delivery and Sale (“T&C”) apply to all legal relationships between the customer and Hoftex Group AG as well as any affiliated companies with the group (“HTG”) pursuant to Sections 15 et seqq. of the German Stock Corporation Act.

1.2. The scope includes all deliveries by us, including the delivery of goods or the provision of services based on purchase, work or service contracts (collectively “service” or “goods”).

1.3. The following T&C apply in their respective version, also to future deliveries, without the need for us to reference them separately in each individual case. You will find the currently valid version of our Terms and Conditions at www.hoftexgroup.com. In the case of ongoing business relationships, it is the Ordering Party’s responsibility to check for changes and/or updates to the T&C of HTG on a monthly basis.

1.4. Any terms and conditions of the Ordering Party that differ from, conflict with or are in addition to these T&C shall only become part of the Contract if HTG expressly agrees to their validity in writing.

2. Offer and Acceptance

2.1. All offers of HTG are non-binding. The Contract is only valid if the content has been confirmed by us (HTG) in writing.

2.2. A purchase order for goods placed by the Ordering Party is considered a binding offer.

2.3. Unless otherwise stated in the purchase order, HTG has the right to accept the contract offer within four (4) weeks of receipt. Acceptance on the part of HTG takes place in writing.

3. Prices, Payment Terms and Offsetting

3.1. The prices indicated in the purchase order are generally fixed prices excluding delivery, unless otherwise agreed in writing between the Parties. All prices quoted exclude the current statutory VAT.

3.2. Unless otherwise agreed, payments by the Ordering Party are made within thirty (30) calendar days of delivery of the goods to the Ordering Party. After the deadline expires, the Ordering Party is in default without the need to set a further deadline. In this event, HTG is entitled to charge a default interest rate of eight percent (8%) above the respective base interest rate p.a. If HTG is able to prove higher damage caused by default, HTG is authorised to assert claims for such damage.

3.3. In the event of default in payment, we are entitled to withhold further outstanding deliveries for the time being and to request advance payment as a method of payment. If the customer’s

credit insurance limit is dropped or reduced after the order has been placed, we are entitled to only deliver against prepayment. Payments are always made on the oldest due receivables.

3.4. The Ordering Party is only entitled to offsetting and retention rights if his claims are undisputed or legally binding. In the event of defects in the delivery, the Ordering Party's counter-rights remain unaffected.

4. Delivery Terms

Unless otherwise agreed in writing between the Parties, delivery is EXW (Incoterms 2020) 95028 Hof (Germany), Fabrikzeile 21.

5. Retention of Title

5.1. We reserve ownership of the delivered goods until all claims from the delivery contract are paid in full. This also applies to all future deliveries, even if we do not always expressly refer to this. We are entitled to reclaim the goods if the Ordering Party breaches the contractual terms.

The Ordering Party is obliged to take care of the goods until transfer of ownership to the Ordering Party is complete. In particular, the Ordering Party is obliged to maintain insurance coverage for the goods at his own expense against theft, fire and water damage at a value corresponding to their original value. Until transfer of ownership is complete, the Ordering Party must notify us immediately in writing if the delivered goods are seized or subject to any other actions by third parties. If the third party is unable to reimburse us for the judicial and extrajudicial costs of any lawsuit pursuant to Section 771 of the German Civil Procedure Act (ZPO), the Ordering Party is liable for the losses incurred.

5.2. The Ordering Party is entitled to resell the reserved goods in the ordinary course of business. The Ordering Party hereby assigns to us the claims against the buyer from the resale of the goods subject to retention of title in the invoice amount agreed with us, including VAT. This assignment applies regardless of whether the purchased goods are resold before or after being processed. The Ordering Party remains authorised to collect payment even after assignment thereof. Our authority to collect payment remains unaffected by this. However, we will not demand payment as long as the Ordering Party attends to his payment responsibility from the proceeds collected, does not enter into default or delay on payment and, in particular, has not filed a petition for the opening of insolvency proceedings or been declared insolvent.

Any treatment or processing of the purchased goods by the Ordering Party always occurs in our name and on our behalf. In this case, the contingent right of the Ordering Party to the purchased goods also extends to the processed item. If the purchased goods are processed with other items which do not belong to us, we obtain joint ownership of the new product in proportion to its objective value in relation to the purchased goods at the time of processing. The same applies in cases where goods are combined with other items. If the items are combined in a manner that causes the Ordering Party's goods to be seen as the main component of the combined product, then it is agreed that the Ordering Party will transfer proportional co-ownership to us to safeguard the resulting sole ownership or co-ownership for us. To safeguard our claims against the Ordering Party, the Ordering Party also assigns to us any receivables from third parties that arise for the Ordering Party as a result of the incorporation of the conditional goods in real property; we hereby accept this assignment.

We agree to release the securities we are entitled to at the Ordering Party's request if their value exceeds the receivables to be secured by more than twenty percent (20%).

6. Material and Legal Defects

6.1. The Ordering Party's warranty claims require the Ordering Party to inspect items on delivery and issue complaints if necessary in accordance with Section 377 of the German Commercial Code (HGB).

6.2. Any claims for defects expire within twelve (12) months of delivery of the goods to the Ordering Party. The statutory period of limitation applies to claims for damages in the event of intent and gross negligence, as well as injury to life, body and health caused by an intentional or negligent breach of obligation on the part of the user.

6.3. If, despite all due care, the delivered goods contain a defect that already existed at the time of transfer of risk, we shall repair or replace the goods as we see fit, subject to timely notice. We must at all times be given the opportunity to render supplementary performance within an appropriate deadline. Claims for recourse remain unaffected by the above provision without restriction. If the remedy to correct the defects fails twice, then the Ordering Party – notwithstanding any claims for damages – is entitled to withdraw from the Contract or to reduce the payment amount.

6.4. Insofar as an effective agreement on the quality of the goods has been made, claims for defects only exist in the event of significant deviations from the agreed quality or only in the event of a significant impairment of the contractually agreed purpose.

6.5. Claims of the Ordering Party related to expenses incurred for the purpose of supplementary performance, in particular transport, travel, labour and material costs, are excluded.

6.6 The warranty is void if the Ordering Party changes the delivery item or has it changed by third parties without our consent and this makes it impossible or unreasonably difficult to remedy the defect. In any case, the Ordering Party shall bear the additional costs of correcting the defect caused by the alteration.

6.7 Claims for recourse by the Ordering Party against us exist only insofar as the Ordering Party has made agreements with his buyer that exceed the statutory warranty claims. The scope of recourse claims by the Ordering Party against us are outlined in Section 6.

7. Liability

7.1 Unless stipulated otherwise in these T&C and in the following provisions, we shall be liable for damage of the Ordering Party only

- a) in cases of injury to life, body or health caused by us or our legal representative or vicarious agent;
- b) if, in the case of purchase or work contracts, we have expressly provided a guarantee in writing for the quality or durability of the goods;
- c) if such damage is caused by our breach of an obligation that is of essential importance for achieving the purpose of the Contract (cardinal obligation);
- d) if there are claims for this under the Product Liability Act (*Produkthaftungsgesetz*);

e) for the remainder, we or our legal representatives or vicarious agents are liable only for damage caused intentionally or through gross negligence.

7.2. In the case of any type of negligence under Section 7.1. c) and in the case of gross negligence under Section 7.1. e), our liability is limited to the foreseeable, contract-typical damage; there is no liability for indirect damage, business interruption/production stoppage, consequential damage due to defects or lost profit, insofar as this is legally permissible.

7.3. Insofar as our liability is excluded or limited, this also applies to the personal liability of our employees, workers, representatives and vicarious agents.

7.4. When determining the amount of the claims for damages to be met by us, the economic circumstances, type, scope and duration of the business relationship, any causation and/or negligence of the Ordering Party in accordance with the statutory provisions on joint liability and any particularly unfavourable installation situation of the goods must be considered appropriately and in our favour. Insofar as we are to provide compensation for damage or bear costs and expenses in accordance with Section 7.2., this must be done in reasonable proportion to the value of the goods.

7.5. The principles of joint liability and the duty to mitigate damage apply accordingly to compensation for damages between the Ordering Party and us. Upon first request, the Ordering Party shall release us from claims by third parties due to damage based on the Ordering Party's requirements, specifications, information or instructions.

7.6. The duty of replacement is excluded insofar as the Ordering Party has effectively limited liability vis-à-vis his buyer. In doing so, the Ordering Party shall undertake to arrange limitations of liability to the extent permitted by law and also in our favour.

7.7. The Ordering Party shall immediately inform and consult with us in detail should he wish to assert a claim in accordance with the above provisions. The Ordering Party agrees to give us an opportunity to examine the defect. The Contractual Partners shall agree on the measures to be taken, especially in settlement negotiations.

8. Confidentiality

8.1 All information received by the Ordering Party, in particular, but not exclusively, documents, tools, means of production, products, parts, etc. may not be shared with third parties and must be treated as strictly confidential – even after termination of the respective business transaction – and returned to us on request.

8.2 The Ordering Party must treat confidentially and not share with third parties all commercial or technical information that is not generally known and is disclosed to him in the course of the business relationship. The Ordering Party's other customers are also subject to this provision on confidentiality.

8.3. The Ordering Party agrees to contractually oblige all employees and other persons who come into contact with the confidential data to maintain secrecy and to provide proof of this obligation on request.

8.4. Any separate confidentiality agreement takes precedence in case of doubt.

9. Over and under delivery

We reserve the right to make over and under deliveries of +/- ten percent (10%) of the order quantity.

10. Basis of Business

The basis of business for delivery in accordance with these T&C is that raw materials and consumables are available to us in sufficient quantities.

11. Force Majeure

11.1. In cases of force majeure, we are released from our delivery obligation and the fulfilment of other contractual duties as well as from any liability for damage or other legal remedies for breach of contract from the moment such an event of force majeure constitutes an impediment to performance – for the duration and scope of the existence of the event.

11.2. Events of force majeure (“Force Majeure”) are those that are beyond our sphere of influence and through which we are wholly or partially prevented from fulfilling his obligations. Force majeure applies in particular, but not exclusively, in the following cases: war, armed conflicts and hostilities or serious threats of such including civil war, riot, revolution, acts of terrorism, sabotage, lawful or unlawful official acts, official orders, rules, regulations or instructions that prevent the Supplier in whole or in part from fulfilling his obligations, natural disasters, epidemics, pandemics, explosions, fire or destruction of machines, systems or production facilities, prolonged failure of transport, telecommunications or power infrastructure or lines, strikes and lawful lockouts. Supply difficulties and other interruptions of service on the part of vendors of the HTG are only considered force majeure if the vendor is prevented from rendering the service to which he is obliged due to an event according to Sentence 2 above.

11.3. We will inform the Ordering Party immediately upon occurrences of forces majeure as well as their end and limit, to the best of his ability, the impact of forces majeure.

11.4. In the event of force majeure, both Parties to the Contract shall coordinate the course of action and determine, after the event, whether the products that could not be delivered during this period should be subsequently delivered.

11.5. Each Party to the Contract is entitled to withdraw from the contracts affected by force majeure if the force majeure lasts more than ten (10) weeks or if it becomes apparent that it will last for such a period of time. The right of each Party to the Contract to terminate the Contract for important reasons in case of prolonged force majeure shall remain unaffected.

12. General Provisions

12.1. In accordance with our corporate strategy, we expect our business partners and their employees to also act responsibly and commit themselves to the basic principles laid down in our Code of Conduct for Business Partners. You can find this Code on our website at www.hoftexgroup.com. We, along with our business partners, are responsible both for our own actions and our choice of partners.

12.2. The place of performance for deliveries is the place of delivery designated in our instructions or in a written agreement; in case of doubt, the place of performance is our headquarters in Hof/Saale (Germany), Fabrikzeile 21.

12.3. Hof/Saale is agreed as the exclusive venue for all disputes on the occurrence, effectiveness and assertion of claims.

The laws of the Federal Republic of Germany, to the exclusion of all international and supranational (contractual) legal orders, in particular the UN Convention on Contracts for the International Sale of Goods, apply to these T&C and all legal relationships between us and the Supplier.

12.4. This Agreement and any resulting rights and obligations are not transferable to any third party without our prior written consent.

12.5. Additional agreements or changes to these provisions are only effective if they have been confirmed by us in writing. The same applies to any waiver of this written form requirement. The electronic form via digital signature fulfils the above requirements for the written form.

12.6. The invalidity or impracticability of individual provisions shall not affect the validity of the remaining provisions. Invalid or impracticable provisions shall be replaced by such valid/practical regulations that are suitable to fulfil the economic purpose of the nullified provision to the greatest extent possible. The same applies to loopholes or gaps in the Contract.