

General Terms and Conditions of Business

HAKOS Präzisionswerkzeuge GmbH Hakenjos



Scope

We provide our goods and services under the validity of these conditions only to persons who on agreeing the contract are acting as part of their commercial or independent professional activities (entrepreneurs) or to legal entities under public law or to a special legal vehicle.

Our "Delivery and Payment Conditions" in section A also apply accordingly for our customized services. The "Additional Conditions for Customized Services" in section B take precedence on the "Delivery and Payment Conditions" in section A to the extent that they contain provisions that differ from or supplement the "Delivery and Payment Conditions" in Section A.

A. Delivery and Payment Conditions

Conclusion of Contract

We provide deliveries only on the basis of the conditions below. Differing conditions from the customer are not valid unless we confirm to the customer the validity of these conditions in writing. Our terms also apply if, knowing the differing conditions of the customer, we have supplied deliveries and services without reservation.

Only agreements that we have given or confirmed in text or a higher form take precedence over these conditions.

Our offers are not binding. Agreements, as well as all legal declarations regarding our deliveries must be in writing. Verbal agreements are only valid if we have confirmed them in writing. The contract is only valid with our confirmation of the order.

Weights and measures given, other details in drawings or other documents on which reference is made upon agreement of a contract, are only approximate and do not constitute a warranty. They characterize our services only in general terms. Drawings, images, dimensions and other performance data, which the customer makes available to us, are only binding if we have confirmed them in writing.

Delivery/delivery delay, changes

Delivery dates and deadlines are not binding. Fixed delivery dates and deadlines must be specifically designated as such and agreed.

Agreed delivery dates and deadlines require - apart from delays attributable to us - the clarification of all technical and commercial issues between us and the customer. They will also only be binding if the customer fulfills all his obligations (e.g. provision of permits, documents, any materials provided, etc.) and has paid an optionally agreed deposit.

The observance of delivery dates and deadlines is subject to our own correct and timely deliveries. We will inform the customer immediately if delays are emerging.

Delivery dates and deadlines are adhered to if the delivery item has left our works or we have notified readiness for dispatch not later than the delivery date or expiry of the deadline.

If we are late to deliver, the customer may ask a lump sum compensation for damage incurred. This would amount to 0.5% for each full week of delay, up to a maximum penalty of 5% of the value of that part of the total product that was not delivered on time or not according to the contract due to the delay.

If we miss the due date set by the customer as a reasonable deadline for delivery, taking into account the statutory exceptions, the customer is entitled under the statutory provisions to withdraw. Further claims arising from delayed delivery are governed exclusively by para. 8 of these conditions.

If non-compliance with delivery dates and deadlines occurs due to measures in connection with labor disputes, especially strikes and lockouts, as well as the occurrence of circumstances that are not caused by us, delivery dates and deadlines shall be extended appropriately. The start and expected end of such circumstances shall be notified immediately.

If delivery dates and deadlines or the scope of work change after conclusion of the contract at the request of the customer giving rise to additional expenses, we are entitled to charge this to the customer separately.

Partial deliveries are allowed, unless they are unreasonable for the customer. In case special tools, especially special taps, injection molding tools or items, are ordered, delivery of up to 15% is permitted. For each shipment we charge for the quantity actually delivered.

Transfer of Risk

The risk passes to the customer when we have delivered the object of the delivery to the forwarder, carrier or the person or institution designated to execute dispatch. This also applies if partial deliveries are made or we have to provide other services.

Unless otherwise agreed, the customer bears the cost of transportation, including the cost of packing and loading. We determine the transport means and route if the customer has not given any instructions. We do not accept packaging in return.

Upon request of the customer, we insure the transportation at the customer's expense against insurable transport risks, e.g. theft, breakage, fire.

If the customer cancels the acquisition, we are entitled to charge a fee for storage with us. Costs and risk of storage shall be borne by the customer

Prices and payments

The prices stated in our order confirmation are definitive.

Our prices are net prices. The VAT applicable on the date of the invoice will be shown separately and must be paid additionally. Discounts are granted only by special agreement.

Unless otherwise agreed, payments are due immediately upon receipt of the invoice. Default occurs after a period of 10 calendar days after the invoice date without requiring a reminder. We charge the statutory default interest and we reserve the right to claim any higher damages.

The withholding of payments due to any counterclaims by the customer that we dispute is not permissible.

The offsetting with other legal relationships of potential customer counterclaims disputed by us is excluded.

Defects

We guarantee that our deliveries are free from material or manufacturing defects (defects).

The customer is required to indicate defects immediately to us. Recognisable defects should be notified by the customer immediately after delivery, hidden defects immediately after discovery of any defects to us in writing with a precise description of the defect. The warranty does not apply if the customer violates these notification obligations.

We are not responsible for improper or inappropriate use, faulty commissioning or use or adverse changes by the customer or third parties, natural wear, improper maintenance, unsuitable operating resources, defective preliminary work, chemical, electro-chemical or electrical influences, always provided we are not responsible for them.

At our discretion, we will replace defective parts without charge by fault free parts or repair defective parts free of charge.

The customer must give us at least three times the time and opportunity to carry out the required repair or replacement. Only in urgent cases of danger to operational safety or to prevent disproportionately greater damage, has the customer the right to remedy the defect itself or by third parties. In this case, we will make compensation for the expenses incurred, if the customer has us informed immediately of the urgency of the need to substitute and we could not make the remedy in time.

In the presence of a defect, we bear the costs incurred by the repair or replacement directly, including shipping. Additional costs arising from the fact that the object of our delivery has been transported to a place other than the place of delivery contractually agreed will be supported by the customer.

The customer can cancel the contract subject to legal requirements if - taking into account the statutory exceptions - we have not been able to provide for the repair or replacement delivery due to a defect within a reasonable deadline.

In the presence of an insignificant defect, the customer is only entitled to reduce the contracted price. The right to reduce the contracted price is otherwise excluded. In cases of justified complaints, the customer may withhold payments only to the extent that is in reasonable proportion to the defects. Further claims of the customer are governed exclusively by para. 8 of these conditions.

Legal Deficiencies

Should the use of tools or tool parts delivered by us violate domestic intellectual property or copyrights of third parties, we are obliged to provide the customer at our expense the right to continue using the item delivered or to modify these in reasonable way for the customer in such a way that the copyright infringement no longer exists. If this is not possible on commercially reasonable terms or within a reasonable period, either the customer or ourselves may withdraw from the contract. In addition, we deliver to customers free of uncontested or legally established claims of copyright holders.

The Rights granted to customers in para. 7.1 are definitive. They exist only: If the customer immediately informs us of the rights or copyright complaint against him; and

The customer supports us to a reasonable extent in defending the claims asserted, particularly allows the implementation of changes to eliminate the intellectual property rights infringement; and

All defense measures including extrajudicial regulation remain open to us; and The legal defect is not caused by the customer's own declarations and/or by user modifications or improper use of the delivered item.

Liability

If the item delivered by us can not be used by the customer according to contract due to culpable omissions or erroneous suggestions or discussions, taking place before or after conclusion of the contract, or due to a culpable breach of other secondary contractual obligations - in particular instructions for operation and maintenance of the delivered item - then we are liable only in accordance with the provisions in paras. 6 and 7 to the exclusion of further claims by the customer.

For damages which have not occurred on the delivery item itself, we are liable - for any legal reason whatsoever - only:

in case of intent,
gross negligence of bodies or senior executives,
culpable injury to life, limb, health,
defects that we have fraudulently concealed,
under a guarantee commitment,
to the extent that liability exists under product liability law for personal injury or damage to privately used objects.

In case of culpable violation of essential contractual obligations, we are also liable for gross negligence of non-executive employees and for minor negligence, in the latter case limited to the contractually typical, reasonably foreseeable damages, and, in case of damage of the delivered item itself (para. 1), limited to the contractually agreed contract value.

Further claims are excluded.

Reservation of ownership

We reserve the proprietary rights to the delivered item until receipt of all payments from the delivery. The retention of title extends also to our other claims arising from the current business relationship, especially in the current account balance claims. In the event of breach of contract, in particular customer payment default, we are entitled to take back the delivered item within a reasonable deadline. The assertion of title and the seizure of the delivered goods by us shall not constitute withdrawal from the contract. After taking back the delivery item, we are entitled to reutilise it. The proceeds shall be credited to the customer's liabilities. We can withhold appropriate reutilisation costs. The customer is obliged to handle the delivery item with care; in particular the customer is obliged to insure the delivery item at own expense against the dangers arising from fire, water and theft at replacement value. The customer is obliged to notify us of seizures or other interventions by third parties on our property immediately so that we can raise the third party proceedings in good time. As far as the complainant is not able to reimburse us for the judicial and extrajudicial costs of legal proceedings, the customer is liable for the loss incurred by us. The customer is entitled to resell reserved goods in the ordinary course of business. Should we accept the cession, the customer shall immediately cede to us the amount of the mutually agreed final invoice (including VAT) from the buyer receivables on the resale of the reserved goods. This cession shall apply regardless of whether the delivery item has been resold without or after processing. The customer shall remain responsible to collect the receivable even after the cession. Our authority to collect the claim itself remains unaffected. However, we will not collect the claim as long as the customer meets the payment obligations from the proceeds collected, is not in arrears and in particular no petition is filed for the commencement of insolvency proceedings or suspended payments.

Any processing or transformation of our delivery item by the customer is always carried out in our name and on our behalf. In this case, the contingent right of the customer on the delivery item continues on the transformed item. If our delivery item is processed with other items not belonging to us, we acquire joint ownership of the new item in proportion to the objective value of our delivery item to the other processed items at the time of processing. The same applies to the case of mixing. If the mixing is done in such a way that the customer's item is to be regarded as the main item, it is deemed agreed that the customer transfers proportional joint ownership to us and keeps the sole ownership or co-ownership for us. To secure our claims against the customer, the customer cedes to us all claims which accrue to it by the transformation or processing of the case against a third party; we accept this cession already now.

We are obliged to release the securities due to us upon request of the customer insofar as the realized value of the collateral exceeds the secured claims by more than 10%. The choice of securities to release is at our discretion.

The request to open insolvency proceedings over the assets of the customer entitle us to withdraw from the contract and demand the immediate return of the delivery item.

Copyright

We retain ownership and all copyrights to samples, cost estimates, drawings and similar information, whether in paper or electronic form. Such documents may be made available to third parties with our consent.

Period of limitation

Warranty claims pursuant to section. 6 and no. 7 shall expire twelve months from transfer of risk, at the latest after delivery.

Claims for damages in accordance with Clause. 8 expire within the statutory time limits. Other customer claims - for whatever legal reason - shall expire twelve months from their creation.

Applicable Law

Only the law of the Federal Republic of Germany is applicable.

Place of Execution and Jurisdiction

Place of execution for all obligations is our registered office.

The jurisdiction lies with the courts competent for our company headquarters. But we are also entitled to sue at the headquarters of the customer or his representative.

B. Additional conditions for wage benefits

Scope

The "additional conditions for wage benefits" do not apply to services that we perform due to guarantees or to ensure commitments.

Customer Obligations

The customer is obliged to inform us at the latest on delivery of the items to be processed by us of the type, quantity and desired processing operation in text form. At the same time before the start of contract work, details in text form must be presented on

The DIN designation or any other relevant information, from which the general tolerances and the chemical composition of the item ensue;
The existing and the desired hardness.

If this information is missing or incomplete, we are not obliged to obtain the information ourselves or to consult elsewhere. We shall carry out the order in such a case using the care that we observe in our own business.

If items are processed by us, the customer is obliged to draw our attention to existing intellectual property rights with respect to the article. If we are not at fault, the customer shall indemnify us against any claims of third parties from any breach of intellectual property.

Unenforceability

If, for reasons beyond our control, we cannot perform the contract work, we bring the item concerned back to its original state only at the express request of the customer, and only against reimbursement of the costs. Other conditions would apply only if the work carried out by us was not necessary.

In the case of non-performance, we are not liable for damage to the item concerned, for breach of contractual obligations and for damages not incurred on the deliverables themselves, whatever legal grounds the customer invokes. We accept liability however in case of intent, gross negligence of our office or executive staff and for culpable violation of relevant contractual obligations. Apart from intent or gross negligence, we are liable only for the contractually typical, reasonably foreseeable damage.

Transport and Insurance

While contract services are being carried out by us there is no insurance protection for the customer's items to be processed. The customer is responsible for the maintenance of the existing insurance coverage for the item being processed against, for example, damage from fire, water and storm. We insure against these risks only on explicit instruction and at the expense of the customer.

In case of customer delay in taking delivery of the processed item, it can also be stored elsewhere at our discretion. Costs and risk of storage shall be borne by the customer.

Inspection and lodging of complaints

We are not in principle obliged to undergo a comprehensive final inspection of machined items. We check the machining only on a sample basis. Due to the spot checks it cannot be expected that we will find all defects in the processing prior to their return delivery. A further test is carried out only by special agreement and reimbursement of costs incurred.

The customer is obliged to carry out an input inspection on the machined items immediately after their return delivery. In particular it should be verified that the items have been processed according to the technical performance criteria communicated to us. The lodging of complaints by the customer, moreover, is governed by para. 6.

Warranty and liability

We do not assume any responsibility in cases where the customer has failed to fulfill the obligations on the communication of data (para. 15).

The right to replace defective by correct parts without charge is excluded in the provision of contract work. Also excluded is the delivery of a replacement item. For production defects, we shall only be liable if we that has been specifically agreed.

Extended lien

As a result of our claims arising from the contract work mandate, in ordering from us the customer transfers us the items for processing so approving a lien on the items transferred under the mandate. The lien may also be asserted for claims arising out work previously performed, supplies of spare parts and other services as far as they are related to the subject matter of the contract work mandate. For other claims from the business relationship the lien applies only insofar as these are undisputed or legally binding.

Upon delivery of the machined items to the customer, these rights are maintained until the redemption of the secured claims. The proceeds from the resale of the machined items replace the items themselves even in the event that the items have been worked at the customer or processed or transformed.

Delivered items previously worked by us, are held by the customer for the duration of the existence of the lien with us and are given out at our request especially if payment terms are not complied with or facts become known that give rise to reasons to doubt the creditworthiness of the customer, and in any case, when the subject of our lien is being seized or insolvency proceedings have been filed or opened on the customer's assets or an insolvency application does not open because of lack of assets. The customer authorizes us already now in the cases mentioned to enter its premises and retrieve the items.

To enforce our own compensation claims, we remain for the duration of our lien indirect owner of the lien item as against upstream suppliers of the customer or secure owner, should upstream suppliers claim the lien item.

Statutory liens remain unaffected.