

General Terms and Conditions of Delivery and Trading of Hürner Schweisstechnik LLC

1. Object

1. Our General Terms and Conditions shall apply to any and all present and future commercial transactions, even when they are not explicitly referred to. Our General Terms and Conditions shall apply analogously, and solely, to services related to the sale of products.
2. Our General Terms and Conditions shall be the sole and exclusive conditions applicable to product sale and service provision; we disagree with any and all dissenting or complementary conditions.
3. All agreements entered into with us shall be put down in writing.
4. Reasonable technical modifications and changes of characteristics such as size, shape, color, and/or weight are reserved.

2. Effectiveness of Agreement

1. Our offers are subject to change.
2. If, exceptionally, a term for acceptance is included in an offer, the offer must be accepted in writing.
3. We consider contractual offers that by the ordering party submits, binding for two weeks from the date of receipt of such offers.
4. Any and all agreements entered into are subject to the correct and timely delivery to ourselves by our suppliers. This shall only apply in cases where we are not responsible for failure to deliver, in particular in cases of matching cover transactions entered into with our supplier. The ordering party shall be notified of the impossibility to deliver without delay. Any consideration for the performance shall be returned without delay.

3. Pricing, Terms of Payment

1. Unless prices were confirmed different in writing, our pricing in force at the day of delivery shall apply. All prices are exclusive of transport cost, sales tax, customs duties, and other fees incurred from the moment of entering into the agreement to the moment of transfer of the goods as provided for in the agreement.
2. Unless the order confirmation declares otherwise, our invoices are payable within 30 days without any discount or within 14 days at 2% early-payment discount. Payment is deemed effected when we can freely dispose of the amount paid. Bills of exchange and checks shall not be accepted in performance, but only instead of performance.
3. We shall be entitled to set payments off against previous debts. In this situation, discounts for early payment of a current debt shall be unacceptable.
4. Die Aufrechnung und nicht auf diesem Vertragsverhältnis beruhende Zurückbehaltungsrechte sind gegenüber unseren Forderungen ausgeschlossen, es sei denn, die Gegenforderungen oder -ansprüche sind unbestritten oder rechtskräftig festgestellt.
5. Setting off claims and exercising liens related to transactions other than this agreement against our receivables shall not be acceptable, unless such counterclaims or counter-receivables are undisputed or legally recognized.
6. In the case of delayed payment, we shall be entitled to claim a flat 5 euros for every payment reminder, interests for default of 8 points above the base rate,

and any additional damages we may have incurred. The ordering party shall be entitled to produce evidence that no or less damage was incurred.

7. If such circumstances come to our knowledge as would be likely to lower the financial standing of the ordering party, in particular if it goes into insolvency, we shall be entitled to declare all receivables due and payable, even when bills of exchange or checks were previously accepted, and to request prepayment or the provision of security for any remaining (partial) deliveries.

4. Packaging, Delivery

1. Packaging shall be performed as appropriate for the product and at the ordering party's cost. We shall be entitled to minor changes of quantity as compared to the ordered product, if so required for reasons of packaging the shipment. The wrapping and packaging material shall be the ordering party's property from the moment of transfer of the goods, and we shall not be required to accept return of such material. Any disposal routines such material may have to be subjected to shall be carried out by the ordering party.
2. The place of delivery shall be the place of performance as provided for under no. 5.1 hereinafter. The delivery shall occur in the form of the transfer of the goods in case of pick-up, in the form of transport, at the ordering party's cost and perils, to the destination and the transfer of the goods at such place, where delivery to destination shall be considered as delivery to the destination without unloading.
3. A date of delivery shall be binding only when it was agreed upon in writing.
4. We shall be entitled, but shall not be required, to insure the goods in transit at the ordering party's cost and to effect partial performance, unless this is of no interest to the ordering party.
5. Any person physically receiving the product for the ordering party and signing the bill of delivery in evidence thereof, shall be considered authorized to effect the receipt of the product. The ordering party shall unload the product without delay.

5. Place of Performance, Transfer of Perils

1. The place of performance shall be the place where the product is picked up, in case of pick-up, and the place where the transport begins, in all other cases.
2. The perils of transport are transferred to the ordering party at the moment the product is picked up, in case of pick-up, and at the moment the transport begins - even when the product is delivered free of freight and haulage - in all other cases.

6. Defects

1. If a product were found to be defective, we shall, at our discretion, firstly remedy such defect by rectifying the defect itself or delivering a replacement product. If such supplementary performance would fail, the ordering party shall in principle be entitled to request, at its discretion, the lowering of the consideration (reduction) or the unwinding of the agreement (rescission). However, the ordering party shall not be entitled to rescind the agreement if the breach of the agreement is insubstantial, in particular if a defect is minor. In case of the replacement delivery of a product, the ordering party shall be required to concurrently transfer title to the defective product back to us.
2. The ordering party shall notify us in writing of obvious defects within 5 days from the receipt of the product; should this not happen, it shall no longer be entitled to raise claims for such defects. This term shall be met when the notification is sent within time. The ordering party shall produce evidence that these preconditions of raising a claim are met.

3. Products for which claims for defects are raised shall neither be processed nor mixed into or bonded with other items.
 4. The characteristics of the product contained in our or its manufacturer's description of it shall be considered the only characteristics agreed upon. Public utterances, representations, or advertisements, on the contrary, shall not be considered contractual descriptions of the product characteristics.
 5. Any such descriptions of product characteristics or other such declarations in relation to it shall not be mistaken as making a warranty. The ordering party shall claim as a warranty statement only such statements as were put down in writing and declared such.
7. Disclaimer
- o We cannot be held liable to minor breach of our contractual obligations. This liability limitation shall not apply to claims raised out of product liability and shall likewise not apply to claims raised out of harm to life, body or health.
8. Retention of Title, Securities
0. Title to the delivered product shall be retained until full payment of all invoices made by us in the course of the commercial relationship with the ordering party. The ordering party shall handle the product with due care.
 1. If a third party seeks seizure of the product, in particular in cases of distraint, the ordering party shall indicate that title is retained and shall notify us without delay of such act. Such seizure shall entitle us to rescind the agreement. Insofar as the third party is unable to reimburse the cost we incur because of such act, be it with or without prior court approval, the ordering party shall be liable for such cost.
 2. The ordering party shall notify us without delay of any damage to, or destruction of, the product, in whole or in part, as well as of any transfer of possession of the product or relocation of the ordering party's registered address.
 3. In the event that the ordering party would break the agreement, in particular in cases of default of payment or breach of the contractual obligations provided for by no. 8.2 and no. 8.3 herein, we shall be entitled to rescind the agreement and to request return of the product.
 4. The ordering party shall be entitled and shall herewith be authorized to sell the product in the normal flow of its business. In consideration thereof, it cedes to us all receivables and/or transfers to us all parts in the title to it that it acquires out of the sale or the bonding, mixing or processing of the product (hereinafter referred to as "securities") up to and including the amount in our invoice applicable to the product, plus a security fee of 20%. The ordering party is herewith granted the revocable authorization to collect at its own cost the receivables ceded to us and to control our property; where this authorization shall not affect our securities. When the ordering party effects payments in relation to the invoices so secured, we shall release the securities at the pro-rata of the payment. If the ordering party is in default, we shall be entitled to request it to disclose our securities to third parties against which it is entitled to raise payment claims, and to request it, furthermore, to indicate to such third parties that they are to effect payment to us up to and including the open invoice amount, and to request it to provide any information needed to perform the securities.
9. Privacy, Final Provisions

0. We store personal data related to the ordering party, and we declare that all our involved personnel are required to comply with privacy and secrecy provisions related to such data.
 1. The law of the Federal Republic of Germany shall be applicable solely; the United Nations Convention on Contracts for the International Sale of Goods shall be excluded.
 2. The sole place of jurisdiction shall be the registered office of Hürner Schweisstechnik LLC.
 3. If any provision of this agreement entered into with the ordering party, including these General Terms and Conditions of Delivery and Trading, should be or come to be unenforceable in whole or in part, this shall not affect the enforceability of the remaining provisions. Rather, such provision shall be deemed agreed upon as is enforceable and can be agreed upon as being as close as possible to the economic objective said unenforceable provision sought to obtain.
10. Contract Language, Place of Jurisdiction, Applicable law
0. Both parties have agreed that the contract language shall be the German language.
 1. The parties submit for all contractual and extra-contractual disputes arising from the agreement, including action taken in relation to bills of exchange and checks, to the local and international exclusive jurisdiction of the courts of Giessen, Federal Republic of Germany. Furthermore, we shall have the right to bring a claim before a court at the buyer's principal place of business or before any other court being competent according to any national or international law.
 2. Both parties have agreed that the laws of Federal Republic of Germany shall apply. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

General Terms and Conditions of Delivery and Trading of Hürner Schweisstechnik LLC - applicable to all agreements entered into with non-consumers, as of Jan. 2010