

I. Validity, defence clause, ownership/copyright and secrecy

1. All deliveries and services of the Peter Huber Kältemaschinenbau SE (supplier) shall be exclusively subjected to these general business terms and conditions (conditions) and any possible special contractual agreements. Other conditions (such as purchasing etc.) of the buyer shall not become a part of the contract, even if not specifically rejected in the order confirmation.
2. These conditions shall also be valid for all future contractual relations between the buyer and supplier, even if not explicitly agreed.
3. Even in the event of a lack of a special agreement, a contract is established between the supplier and the buyer with the written order confirmation of the supplier. The quantity of the delivery or services is exclusively determined by the written order confirmation of the supplier.
4. The supplier reserves all owner rights and copyright to all prototypes, drawings, models, tools, cost estimates as well as to all information, physical and non physical (also in electronic form). Information shall not be given or made available to any third party without prior permission of the supplier. In the event of an order not being requested, then the information must be immediately returned to the supplier by the buyer on request.
5. The parties to the contract shall undertake that all non evident business or technical details, known of through the business relationship be classed as confidential. If it becomes known to either of the parties that any confidential information has reached an unauthorised third party, or any confidential documentation has been lost, then he must immediately instruct the other party to the contract in this connection. The supplier explicitly reserves himself the right to take legal action (civil or, if need be, criminal) in the event of a breach of the confidentiality, business secrecy or similar obligations.

II. Prices and charging

1. Unless otherwise agreed, the price is ex works, not including packing, transport, insurance, customs costs and other various incidental expenses accruing. In addition to the price, the sales tax must be added at the appropriate legally valid rate.
2. The buyer's right to withhold payment or to charge up a counterclaim, is only possible when a counterclaim is not disputed or is legally binding.

III. Retention of ownership and obligation to deliver when payment is delayed

1. The goods remain the property of the supplier (title is retained) until the fulfilment of all outstanding financial claims against the buyer.
2. The buyer may offer the (title retained) goods within the framework of normal business, he cedes, however, already at this stage all claims resulting from this to the supplier up to the indebted sum, in order to secure payment claims of the supplier (including VAT). The supplier acknowledges this. This cessation is independent of whether the goods remaining the property of the supplier (title retained) have been sold before or after treatment. The buyer retains the right to the claim even after the cessation. The authority of the supplier, to make the claim himself, is not affected. The supplier will not, however, make this claim, as long as the buyer fulfils his legal obligation to pay from the incoming revenues, and is not in delay of payment, and no application to open insolvency proceedings has been filed.
3. Otherwise, the buyer may not mortgage, nor use the goods for security. In case of mortgage, confiscation or other uses or forms of intervention by a third party, the buyer must immediately notify the supplier.
4. Owing to the reservation of property rights, the supplier can only demand the goods returned when he has withdrawn from the contract.
5. An application to open insolvency proceedings gives the supplier the right to withdraw from the contract and to demand the immediate return of the delivered goods.
6. Behaviour of the buyer in breach of the contract, particularly in case of payment delays, allows the supplier, after a warning, the right to demand that the buyer return the goods immediately.

IV. Delivery times and delivery delays

1. The delivery time is calculated under the agreement of the contractual parties. Compliance on the part of the supplier is under the condition that all business and technical questions between the contracted parties are explained, and that the buyer has fulfilled all his obligations (such as transferring various information, permissions and plan releases to the supplier, keeping to agreed payment conditions etc) within the allotted time. If this is not the case, then the delivery time is extended appropriately.
2. The keeping of the delivery time is under the condition of correct, defect free and punctual delivery by parts suppliers. If delays are apparent, then the supplier is to inform this as soon as possible.
3. The delivery time is when items for delivery, have left the suppliers works or are ready for pick-up.

4. Partial delivery is allowed, as far as it is reasonable for the buyer.
5. Any article offered is subject to its being unsold.
6. If non adherence to the delivery time is due to force majeure, industrial dispute, or other occurrences that lie outside the influence of the supplier, the delivery time may be appropriately extended. The same is valid in the case of late, defective or incorrect delivery by suppliers, or in case of a reasonable delay requested by the buyer.
7. If the shipping of goods for delivery is delayed due to representations by the buyer, then the additional costs incurred will be calculated starting one week after the goods are available for shipping.
- 8.1 If the buyer, under consideration of the legal exceptions sets a reasonable delivery deadline to the supplier, and the deadline has not been complied with, then the buyer, within the framework of the legal regulations, is authorised to rescind from the contract. He undertakes, when requested by the supplier, to state if he will make use of the right to rescind, within a reasonable deadline.
- 8.2 Further claims by the buyer (Damages etc) due to late delivery shall be excluded, unless it is a case regulated under section IX (Liability exclusion).

V. Transport and passing of risk

1. The order for the transport of the goods must be placed by the buyer.
2. The risk is passed to the buyer as soon as the items to be delivered have left the factory. This is also valid for partial deliveries or when the supplier is contracted to perform other work (e.g. delivery, assembly and installation).
3. If the delivery is delayed, or omitted due to circumstances outwith the control of the supplier or because the buyer has so requested, then the risk passes to the buyer from the day the buyer is notified that the goods are ready for collection. This is also true for any default of acceptance of the goods by the buyer due to other reasons.

VI. Trials

If goods are supplied for testing, then it is classed as being bought by the buyer, if it is not returned within the agreed return time frame. If no return time has been agreed, this is to be taken as 4 weeks. The date of the invoice is decisive. In case of return, the buyer bears the cost of transport, checking and any other costs incurred by the supplier (Cleaning, servicing, repairs etc).

VII. Installation

1. The buyer is obliged to ensure at his cost, that the required conditions for correct installation of the delivered goods are provided at his facility.
2. The costs for installation are based on the rates quoted by the supplier, which is also a part of the contract, and must always be included with the contract confirmation, or may be seen at any time by the buyer, even before the contract is concluded.
3. If the Installation and mounting is delayed due to circumstances not under the control of the supplier, then the buyer, must carry the required extra costs (waiting, travel costs etc), on the basis of the agreed rates.

VIII. Liability for defects

The supplier is liable for material defects and deficiencies in title of the delivery, under exception from further liability – subject to section IX (Liability exclusion) - as follows:

1. Material defects:

- 1.1 Notification of defects by the buyer must be done in writing without delay. Thereby the buyer must give to the supplier all relevant information concerning possible fault symptoms, error messages, incorrect functions and other documentation such as information concerning the application, machine serial number etc.
- 1.2 The buyer can only withhold payment when a notification of defect has been proved and of which there can be no doubt. The buyer has no right to withhold payment when the liability for defects is prescribed. If the defect notification is wrong, then the supplier is empowered to demand payment for the work involved. (see also section 1.6).
- 1.3 All the affected parts and services are, at the choice of the supplier, to be repaired, replaced correctly, or refitted free of charge, as long as the cause lies within time of passing of risk. Replaced parts are the property of the supplier.
- 1.4 To undertake all the supplier apparently necessary rectifications of defects and replacements, the buyer should, after an agreement with the supplier, give the supplier all the required information (section 1.1), time and opportunity required resolve the problem. If the buyer is not given adequate opportunity then the supplier is freed from liability and its consequences.
- 1.5 If at all, and in so far as the complaint is justified, of the direct costs incurred for the rectification of defects or replacement, the supplier carries only the costs of the replacement part (and if applicable, inland transport costs).

- 1.6 If however the complaint turns out to be unfounded, or is a case concerning section 1.10, the buyer carries all the costs incurred by the supplier.
- 1.7.1 The place of supplementary performance (improvement) is exclusively decided by the supplier. Normally, the repairs take place at the registered office of the supplier, or at another place deemed suitable by the supplier.
- 1.7.2 The buyer must deliver the goods to the supplier at the place named in section 1.7.1 in an orderly manner, and at his own cost (transport etc) and risk. In particular, all external products, accessories, additional products, programs, data, and storage media that are not a part of the delivered goods must be removed before shipping. The supplier hereby bears no responsibility for anything not removed by the buyer, or that was damaged before arrival at the supplier. Also, the goods to be delivered must be prepared for shipping in an orderly way (cleaned, fully emptied, transport locks activated etc), and suitably packed. The buyer, as shipper, is obliged to fully remove without residues, any dangerous or poisonous products, or products otherwise dangerous to health with which the machine has been in contact, so that there is no danger to the buyer as receiver.
- 1.8.1 The buyer has the right under the legal regulations to rescind from the contract, when the supplier, under consideration of the legal exceptions, has given a reasonable date for rectification of defects or replacement due to a material defect, which has now elapsed without success. If it is only a minor material defect, then the buyer has the right of abatement in the contract price.
- 1.8.2 The right of abatement of the contract price is otherwise excluded.
- 1.9 Further demands (damages etc) from the buyer are excluded (exempt from section IX. (Liability exclusion)).
- 1.10 Especially in the following cases, there can be no liability for defects:
- 1.10.1 Minor variations from the agreed appearance and workmanship, or only minor impairments to usability; also unsuitable, incorrect, excessive and other non intended use of the delivered goods; Unsuitable or faulty installation or commissioning by the buyer, or any third party; natural wear and tear, faulty or careless handling, incorrect servicing, unsuitable operating materials (such as non allowed thermal fluids), bad building work, unsuitable foundation, chemical, electrochemical, electrical, thermal and other effects that cause interference to the correct operation of the delivered goods, due to special external influences which were not foreseen in the contract and non-reproducible software errors.
- 1.10.2 The seller is not liable for any problems resulting from any inappropriate rectification of defects made by the purchaser or any third party. The seller is also not responsible for any alterations to equipment which have not been authorised in writing in advance.
- 1.10.3 Repairs which have not been authorised in writing by the supplier, outsourced work and modifications of any kind, non intended use, the changing or removal or manipulation of the machine label or the serial number. All rule out supplier liability for defects.
- 1.10.4 The supplier is not under any circumstances liable for damages to the buyer or end customer caused by the non availability of parts or through production stoppage (e.g. due to late parts deliveries).
- 1.11 The demand of the buyer for supplementary performance (improvement) becomes prescribed 12 months after the legal start of the beginning of limitation of claim; the same applies the above mentioned rescission and abatement. In addition, section X. (statute of limitation).

2. Deficiencies in title: protection and copyright of third parties

- 2.1 If the use of the delivered goods leads to infringement of business protection rights or copyright of a third party in inland, the supplier will make available to the buyer, at his own cost, the right of further use, or modify the delivered goods in a way reasonable for the buyer, such that the copyright infringement is no longer present. If this is not possible under economically reasonable conditions or within a reasonable time, the buyer is authorised to rescind from the contract. Under the stated conditions, the supplier also has a right of rescission.
- 2.2 The above named supplier obligations in section 2.1 are subject to section IX. (Liability exclusion) for concluding the case for protection or copyright infringement. They are only operative when the buyer informs the supplier immediately in writing about the claim concerning protection or copyright infringement, he supports the supplier in an appropriate way for defending the requirements claimed or enables the supplier to carry out modification operations according to section 2.1 above, he reserves the supplier all defensive measures including any out of court settlement, the buyer does not acknowledge the deficiency in title is not based on instructions from the supplier and the infringement is also not due to the buyer having modified the delivered goods independently or used the goods in a way not according in the contract.

IX. Liability exclusion

- The supplier is exclusively liable for defects which have not occurred on the delivery item itself, – irrespective of the legal basis – when this defect has occurred
 - By intention,
 - By gross negligence of the owner/ his organs or leading employees,
 - By culpable injury to life, body or health,
 - By defects which were fraudulently hidden.

In the event of a culpable infringement of major contractual obligations, the supplier is also responsible for gross negligence of non leading employees and also for slight negligence. In this latter case, this is limited to the damage that is typical for the contract and reasonably foreseeable damage.

- Any further claims are expressly excluded.

X. Statute of limitation

- All claims of the buyer – irrespective of the legal basis – become prescribed in 12 months.
- For all claims for damages according to section IX. 1.1 – 1.4 the statutory deadlines apply.

XI. Software usage

- As far as the delivery contains software, the buyer is granted a non exclusive right to use the software and its documentation. It is given for use on the suitable delivery item. A use of the software on more than one system is prohibited.
- The buyer may copy the software only within the legally allowed quantities. He may not re-work, translate or convert from the object code to the source code. The buyer is obliged not to remove or to change manufacturers' markings (e.g. copyright notices) without the previous explicit permission of the supplier.
- All other rights to the software and the documentation including the copies remain with the supplier or the software supplier. The granting of sub-licences is not allowed.

XII. a) Returns according to the (German) electrical and electronic equipment regulation (Elektro- und Elektronikgerätegesetz (ElektroG))

- The sale price excludes the cost for return and disposal of old equipment. The buyer is considered to be different than private households in the sense of this regulation (ElektroG).
- If required, the supplier can organise the return and recycling or disposal of such equipment as is distributed by the supplier, on payment of all charges so arising.

b) Returns policy pursuant to the German Packaging Act (VerpackG)

- The sales prices do not include the cost of returns and disposing of transport packaging from users other than private households within the meaning of the German Packing Act (VerpackG).
- The customer is responsible for disposing of all packaging waste in the appropriate manner either by reusing the packaging or by taking it to a waste disposal facility or waste management company.

XIII. Contract changes, Legal jurisdiction Offenburg, Contract language, Choice of law, Severability clause, Data privacy

- For unforeseeable occurrences which lie outside the influence for the supplier, (e.g. section IV. 6.), which largely change the business meaning or the contents of the delivery, or have a large influence on the business of the supplier, the contract would be adjusted paying attention to the principle of equity and good faith ; where it is not commercially presentable, the supplier has the right of rescission from the contract.
- In the event of a dispute between the supplier and the buyer, the legal jurisdiction is agreed as D77656 Offenburg. The supplier has simultaneously the right to bring action at the head office of the buyer.
- The language of this contract is German. In the event of the parties of the contract use another language as well and in the event of a conflict the German wording shall take precedence.
- All legal relationships between the supplier and the buyer shall be governed by the law of the Federal Republic of Germany applicable to domestic legal relationships, under exclusion of the United Nations Convention on Contracts for the International Sale of Goods.
- If a clause in these conditions is invalid, it does not change the validity of the other clauses. If a clause is partially invalid, then the other parts of the clause remain valid. The parties shall replace the invalid clause with a valid replacement clause, which comes as close as possible to the economic purpose of the invalid clause.
- The supplier processes personal data only in accordance with the statutory provisions and the privacy statement available at www.huber-online.com/en/privacy-policy.aspx.