



**General Terms and Conditions**  
**Hermann Wirth Werkzeugmaschinen, Karben, Germany**

**1. Scope**

All our - also future - contracts, deliveries and services shall be made exclusively on the basis of the following terms and conditions, which shall be deemed agreed.

1.1 The purchaser's terms and conditions of purchase are hereby expressly rejected. They shall not bind us even if we do not expressly contradict them again upon conclusion of the contract.

1.2 Conclusions and agreements, in particular also insofar as they amend these terms and conditions, shall only become binding for us upon our written confirmation.

**2. Offer, conclusion of contract and scope of delivery / service**

2.1 Our offers are subject to change without notice.

2.2 Orders shall not be deemed accepted until they have been confirmed by us in writing.

2.3 Our written order confirmation shall be decisive for the scope of delivery. Subsidiary agreements and amendments require our written confirmation.

2.4 Drawings, illustrations, dimensions, weights or other performance data shall only be binding if expressly agreed in writing.

2.5 The seller's sales employees are not authorised to make verbal subsidiary agreements or to give verbal assurances which go beyond the content of the written contract.

2.6 We reserve unrestricted ownership and copyright exploitation rights to samples, cost estimates, drawings and other documents. The documents may not be made accessible to third parties. The drawings, samples and other documents provided within the framework of offers must be returned to us immediately upon request if the order is not placed with us.

**3. Prices**

3.1 Our prices apply ex warehouse Karben or location excluding packaging. Value added tax at the respective statutory rate shall be added to the prices.

**4. Payment**

4.1 Unless otherwise agreed, our invoices for new machines shall be paid net 14 days after invoicing to the freely specified paying agent. Used machines are to be paid upon notification of readiness for dispatch.

4.2 If the customer is in default of payment, we shall be entitled to charge default interest at a rate of five percent above the base interest rate. This does not exclude the assertion of further default damages.

- 4.3 Credit notes for cheques shall be issued with the value date of the day on which we can dispose of the equivalent value. The customer shall bear all costs associated with the cheques.
- 4.4 The customer shall only be entitled to offset or withhold payments if his counterclaim(s) is (are) undisputed or legally established.
- 4.5 All our claims become due immediately if the terms of payment are not complied with or if circumstances become known to us after the individual conclusion which are suitable to reduce the creditworthiness of the customer. In such a case, we shall also be entitled to make outstanding deliveries only against advance payment or provision of security or to withdraw from the contract after a reasonable period of grace or to claim damages for non-performance. In addition, we may prohibit the resale of the goods delivered under reservation of title and demand their return or the transfer of indirect possession at the customer's expense and revoke the collection authorisation pursuant to Clause 10.4.

## **5. Delivery period**

- 5.1 Delivery periods and delivery dates are always only approximate. The delivery period begins with the dispatch of the order confirmation, but not before the provision of the documents to be procured by the customer.
- 5.2 The delivery period shall be deemed to have been complied with if the delivery item has left the warehouse or the factory or readiness for dispatch has been notified by the end of the delivery period.
- 5.3 Events of force majeure entitle us to postpone the performance of the service for a reasonable period of time or to withdraw from the part of the contract not yet fulfilled. Strikes, lockouts, mobilization, war, blockades, export and import bans, shortages of raw materials and fuel, fire, traffic blockades, disruptions of operations or transport as well as similar circumstances, including those of our suppliers, shall be deemed equivalent to force majeure. In the event of force majeure, the Purchaser's claims for damages shall be excluded to the extent permitted by law.
- 5.4 We shall not be responsible for the aforementioned circumstances even if they arise during an already existing delay. We will inform the customer of the beginning and end of such hindrances as soon as possible.
- 5.5 If we ourselves are in default, the customer must grant us a reasonable extension of time. Claims for damages arising from non-compliance with delivery periods or delivery dates are excluded.

## **6. Transfer of risk and dispatch**

- 6.1 The risk shall pass to the customer at the latest upon dispatch of the delivery parts, even if partial deliveries are made or we have assumed other services, e.g. dispatch or delivery.
- 6.2 If dispatch is delayed due to circumstances for which the purchaser is responsible, the risk shall pass to the purchaser on the day on which the goods are ready for dispatch.

6.3 At the customer's request, we shall insure the consignment at his expense according to his instructions.

6.4 Partial deliveries and deviations from order quantities of up to 10% are permissible to a reasonable extent.

## **7. Warranty for new machines and new equipment**

7.1 The seller warrants that the products are free from manufacturing and material defects; the warranty period is six months.

7.2 The warranty begins on the delivery date. If the Seller's operating and maintenance instructions are not followed, changes are made to the products, parts are replaced or consumables are used which do not correspond to the original specifications, any warranty shall lapse if the Buyer does not refute a substantiated claim that one of these circumstances caused the defect.

7.3 The Buyer must notify the Seller in writing of any defects immediately, but at the latest within 10 days of receipt of the delivery item. Defects which cannot be discovered within this period, even after careful inspection, must be reported to the seller in writing immediately after discovery.

7.4 In the event that the buyer notifies us that the products are defective, we shall postpone at our discretion that

a) the defective part or device is sent to us for repair and subsequent return,

b) the purchaser keeps the defective part or device ready and has it repaired immediately by a service technician commissioned by us. If the repair cannot be carried out immediately, any expenses incurred shall be borne by the purchaser.

If the buyer demands that the warranty work be carried out at a location to be determined by him, the seller can comply with this, but has a claim for compensation due to the additional expenses incurred as a result.

7.5 If the subsequent improvements fail after reasonable periods, the buyer may, at his discretion, demand a reduction in payment or cancellation of the contract. Compensation is excluded.

7.6 Liability for normal wear and tear is excluded.

7.7 Warranty claims against the seller are only due to the direct buyer and are not transferable.

7.8 The above paragraphs conclusively contain the warranty for the products and exclude other warranty claims of any kind.

## **8. Warranty for used machines and equipment**

8.1 Used machines and equipment are generally sold under exclusion of any warranty.

8.2 In the case of agreed warranties and guarantees which the purchaser can assert despite the above conditions, the warranty conditions for new machines and equipment shall apply.

8.3 In principle, no warranty shall be assumed for wear parts, even in the case of warranted properties.

## **9. Liability of the buyer in case of incorrectly asserted warranty**

9.1 If the Buyer has wrongly asserted a warranty claim and the Seller incurs expenses as a result, the Buyer shall be obliged to reimburse the expenses incurred.

## **10. Retention of title**

10.1 As seller, we reserve title to the delivered goods until complete payment of all claims arising from the business relationship, including future claims, even if payments are made for specially designated claims. In the case of a current account, the reserved title shall be deemed as security for our balance claim.

10.2 Goods subject to retention of title may only be sold in the ordinary course of business. This shall no longer apply if the customer is in default. The customer is neither entitled to pledge the goods nor to assign them by way of security. We must be notified immediately of any seizure by third parties.

10.3 Any treatment, processing, mixing or combination by the Buyer shall be carried out on our behalf without any liabilities arising therefrom. Insofar as we do not already acquire ownership or co-ownership on the basis of statutory provisions, the customer hereby assigns to us co-ownership of the items or inventories belonging to him in the amount of the invoice value of our goods subject to retention of title and shall keep them in safe custody for us with due commercial care.

10.4 The customer assigns to us all claims (including all current account balance claims) against third parties to which he is entitled in connection with the use of the goods subject to retention of title, in particular due to resale, processing or installation, in the amount of the invoice value of the goods subject to retention of title. The assignment serves to secure all claims which we have against the customer. The customer shall be entitled to collect the assigned claims until revoked by us. The direct debit authorisation shall expire even without express revocation in the event of default or other indications of the customer's payment difficulties.

10.5 If the value of the existing securities exceeds our claims by more than 20% in total, we shall be obliged to release the securities at our discretion at the request of the customer.

10.6 In the event of default in payment, the customer shall be obliged, at our request, to immediately provide us with all information which serves to enforce our retention of title rights, in particular to provide us with a list of the goods subject to retention of title and their whereabouts.

10.7 The purchaser's right to own the reserved goods shall lapse if he fails to fulfil his obligations arising from the mutual business relations. In such cases, we shall be entitled to enter the

customer's premises or other property, to take possession of the goods subject to retention of title and to dispose of them in the best possible way after notification. The proceeds shall be credited to the customer's liabilities after deduction of the costs.

#### **11. Design changes**

The seller reserves the right to make design changes at any time; however, he is obliged to make such changes to products already delivered.

#### **12. Limitation of liability**

12.1 Our liability shall be governed exclusively by the agreements made in these terms and conditions. However, this exclusion of liability does not apply in the case of intent or gross negligence or in cases in which liability is assumed in accordance with the Product Liability Act for personal injury or material damage to privately used objects in the event of defects in the delivery item.

#### **13. Place of jurisdiction**

13.1 For all disputes arising from the contractual relationship, if the customer is a fully qualified merchant, a legal entity under public law or a special fund under public law, the action must be brought exclusively before the court responsible for us.

#### **14. Final provisions**

14.1 Amendments, supplements or subsidiary agreements are only legally effective in written form. The invalidity of one or more contractual conditions does not affect the validity of the remaining conditions. An invalid provision is to be replaced by agreement of both contractual partners in such a way that the original intended purpose is largely achieved.

The law of the Federal Republic of Germany shall apply between the contracting parties.