

# Terms and Conditions HAUFE GMBH

## I. General

1. These terms and conditions apply to all current and prospective deliveries and services of the Haufe GmbH company (Haufe GmbH). These conditions do not, however, apply to consumers in terms of § 13 BGB (German Civil Code). We do not commit ourselves to terms and conditions to the contrary, even if we have not vetoed them expressly upon receipt. We hereby veto the terms and conditions of our contractual partners or clients.

2. Our offers are subject to confirmation. Any verbal subsidiary agreements, commitments, guarantees and other warranties only become binding upon our written confirmation.

3. Any documents constituting part of our offer, such as drawings, illustrations, technical data, references to standards as well as statements in advertising material or descriptions are not details of the condition, assurances of quality or guarantees insofar as they are not expressly described as such by us in writing.

4. Any deviations of the delivery item from offers, samples, specimens and pre-deliveries are permitted according to the respective applicable DIN/EN standards or other appropriate technical norms.

## II. Orders

1. All declarations such as orders or forecast delivery schedules as well as changes and/or amendments are only binding if they have been given or confirmed in writing by Haufe GmbH. Any agreement to dispense with written form must be expressed in writing.

2. Delivery schedules arising from supply contracts do not need to be confirmed separately.

## III. Delivery

1. Upon the transfer of the goods to a carrier or freight forwarder, but, at the latest, upon leaving the warehouse, the risk at all commercial transactions will be transferred to the purchaser even with post paid and carriage paid deliveries. The obligation and costs of unloading are borne by the purchaser. Insurance coverage will be provided by us only on the instruction and at the expense of the purchaser.

2. Our delivery obligations are subject to proper and on-time self-delivery, unless the incorrect or delayed delivery was caused through our fault.

3. Delivery periods given determine the approximate ex works date of delivery after all production conditions have been fulfilled, as far as no binding delivery times were agreed on. Haufe GmbH does not assume any warranty for a specified transportation time.

Observance of the agreed terms of deliveries presupposes the timely receipt of all documents, required authorisations, approvals and releases to be supplied by the purchaser, in particular of plans, as well as the observance of agreed payment terms and other obligations on the part of the purchaser. If these conditions are not fulfilled in time, the terms will be extended accordingly.

Delivery terms and delivery dates are regarded as complied with if the delivery item has left our site by the time they expire. For ex works sales, the delivery terms and dates apply upon notification that the goods are ready for dispatch, even if the goods cannot be dispatched/picked-up in good time without any negligence on our or on supplier's part.

4. We are entitled to perform partial deliveries to a reasonable extent; these are regarded as independent commercial operations. With respect to goods manufactured to customers' specifications, excess deliveries and short deliveries of up to 15% of the agreed amounts are variances arising from production and are thus permissible.

5. With contract release orders, we are entitled to manufacture or have manufactured the entire amount ordered in one production run. Any desired alterations cannot be taken into account after the order has been placed, unless this was expressly agreed on. Call deadlines and quantities released can only be adhered to within the framework of our delivery and manufacture capabilities, insofar as no specified agreements have been decided.

If the goods have not been retrieved in accordance with the contract, we are entitled, after setting an extension of two weeks after notification of the goods being ready for dispatch, to demand immediate acceptance and payment of the goods, or to charge storage fees, or to demand compensation due to failure of performance.

6. Delivery terms will be extended to an appropriate extent concerning measures within the framework of industrial action, especially strikes and lockouts, operational disturbances (e.g. fire, breakages in machines or rollers, shortages in materials or power) as well as the occurrence of unforeseeable obstacles which lie outside our power or sphere of influence, insofar as such obstacles are demonstrably shown to be of significant influence on the production or delivery of the article of sale. This also applies when such circumstances arise with our suppliers.

If delivery should thus become impossible, then Haufe GmbH is not obliged to deliver. The client can only exert any right he may have to withdrawal due to impossibility of performance or delay, insofar as adherence to the contract cannot be expected of him. In such cases, the client may not make claims for damages.

7. If there is reasonable cause to suspect problems as regards solvency, we can make deliveries incumbent on the condition of an appropriate security by the client. Until such security is presented, we cannot be regarded as being in default.

8. If Haufe GmbH experiences delays with fulfilling its contractual obligations, then it is liable only for the direct damages caused by this delay, and which can be regarded as predictably customary in this line of business. Insofar as Haufe GmbH is not responsible for any deliberate or wilful negligence, it is liable only to the sum of the order value of the individual order affected.

Liability for production stop, lost profits and for all direct damages caused by the delay as well as all other subsequent damage and financial losses is excluded with the exception of cases of gross or wilful negligence.

9. Concerning deliveries to countries of the European Union, the ordering party is obliged to inform Haufe GmbH of its VAT identification number upon placing its order. If the ordering party does not inform Haufe GmbH of this number or does not supply it correctly, then the company is entitled to demand compensation. The same applies if the ordering party does not supply the necessary confirmations regarding transport and final destination of the goods with deliveries ex works or pickups by the customer himself. The objection of contributory negligence is excluded. Haufe GmbH is, in particular, not obliged to check or have checked the correctness of an identification number it receives.

#### **IV. Prices, Dispatch, Packing**

1. Our prices are, insofar as nothing else has been agreed on, ex our works plus packing and statutory value added tax. All public charges and additional costs, e.g. taxes, customs, stamp duties, will be borne by the client.

2. Dispatch is undertaken with re-circulating packaging on special pallets (so-called top frame pallets) which cannot be stacked.

3. Empties, especially coils, original packaging, special pallets, etc. remain the property of Haufe GmbH. Empties are lent to the ordering party against a security. The full value of the empties will be levied as a deposit (pledge). When returning empties, the deposit charged will be reimbursed in full. Empties must be returned within an appropriate term (3 months) and in perfect, clean and re-usable condition, in original packaging (coils standing).

4. Return of empties to the delivery plant is at the expense and risk of the ordering party. In the case of damage caused by the ordering party or improper return transportation of the empties (unpacked or coils not standing packed in their original boxes), we are entitled to retain the entire deposit sum.

5. Tool costs will be charged separately on a pro rata basis, without the ordering party thereby acquiring any rights to the tools. They remain the property of Haufe GmbH and will be serviced and maintained and replaced free of charge when wear and tear arises.

## **V. Payment and Invoicing**

1. If nothing else has been agreed in writing, then our invoices must be paid within 14 days with a 2 % discount or in full within 30 days of date of issue. The payment must be effected within this period in such a way that the sum necessary to settle the invoice is available to us by the due date at the latest. The customer is in default 10 days after our demand was due at the latest, without a reminder having to be issued.

If the payment period is exceeded, then, insofar as it is possible to assert it, a further demand for damages amounting to the legal interest on arrears of at least 8 % p.a. over the basic interest rate of the European Central Bank will be charged. We reserve the right to enforce further damages due to delay.

2. Only indisputable or legally determined claims entitle the purchaser to set-off or retention.

## **VI. Acceptance / Notice of Defects / Warranty**

1. The purchaser must inspect the delivered goods immediately upon delivery. Claims due to an apparent defect of the goods can only be asserted by the purchaser within 10 days, due to a hidden defect only within three weeks after acceptance of goods. Regarding deliveries according to a specimen or sample, notice of defects, even of hidden defects, is excluded if the goods delivered correspond to the specimen or sample. If a fault is due to the material provided by the ordering party itself, then all claims to damages due to defects are debarred.

2. All claims for damages due to defects presuppose that the defect is reported in writing immediately after it is detected and before processing or handling, giving coil and batch number and sending a specimen/sample of the rejected goods. Damage to goods in transit must be noted on the waybill and the delivery note and confirmed by the driver's signature.

3. With legitimate, prompt notification of defects we will take defective goods back and deliver fault-free goods in turn; in lieu thereof, we are entitled to choose to repair defective goods.

4. If the ordering party does not give us the opportunity to assure ourselves of the defect, if it does not immediately make the rejected goods or samples thereof available on demand, then all warranty claims are inapplicable.

5. We only accept the warranty and liability for the production of the delivered goods which are manufactured according to the ordering party's specifications and which have been tested and approved of by the client according to a special test procedure, i.e. we will replace the faulty parts free of charge, as well as other costs in line with our product liability insurance policy, which we will be pleased to present to our business partners on demand.

We do not accept any liability and warranty for call-backs or returns of any kind.

6. We warrantee rectification of defects and replacements in the same way we do the original delivery or service.

7. Further claims made by the purchaser, especially claims for compensation for damage which did not arise on the article of sale itself, are excluded.

This exemption of liability does not apply in cases of deliberate acts, gross negligence of management as

well as by culpable infringement of essential contractual obligations.

With culpable infringement of essential contractual obligations, the supplier is liable, except in cases of deliberate acts or gross negligence, only for reasonably foreseeable damage, usual in such contracts.

Furthermore, the exemption of liability does not apply in cases in which, according to the product liability act, there is liability for personal injury or damage to property as regards privately used objects due to faults in the article of sale. It also does not apply with the lack of attributes, expressly assured of in writing, if the assurance was intended to protect the ordering party against damage which has not been incurred by the article of sale itself.

Guaranteed attributes are present with regard to the entire contractual relationship only if they have been guaranteed in writing.

8. If any advice on applications or technology has been given verbally or in writing, this is non-binding and does not absolve the ordering party from its obligation to carefully examine our products with regard to their usability for the procedure and purposes intended. If, however, liability on our part could come into question, then this is limited to deliberate acts or gross negligence.

## **VII. Retention of Title**

1. All goods delivered remain our property (goods under retention of title) until all demands have been fulfilled, even when payments have been made on especially designated demands.

This also applies to demands arising in the future or conditional demands, e.g. from acceptance of bills of exchange. With running accounts, the reserved property serves as security for our demand for the balance due.

2. The handling and processing of the goods under retention of title is effected for us as manufacturer in the spirit of § 950 BGB (German Civil Code) without any obligation to us. The handled and processed goods are regarded as goods under retention of title in the spirit of the previously mentioned Point 1. With processing, assembly and mixing of the goods under retention of title with other goods by the client, we shall acquire joint title to the new item in proportion to the value of the goods under retention of title compared to the value of the other goods used. If our property is extinguished by linking or combining it with other goods, then the client now transfers to us the property rights to which he is entitled with regard to the new asset or item to the extent of the value of the goods under retention of title and stores it for us free of charge. Our joint property rights are regarded as goods under retention of title in the spirit of the afore-mentioned Point 1.

3. The client may only sell the goods under retention of title in the usual business circles under his normal business conditions and so long as he is not in default, provided that the demands from the resale in line with Points 4-6 are transferred to us. He is not entitled to other disposal of the goods under retention of title. Resale is seen as on a par with installation in plots or buildings or the use of the goods under retention of title to fulfil other plant or plant delivery contracts by the client.

4. The client's accounts receivable arising from the resale of the goods under title of retention are hereby transferred to us. They serve as collateral to the same extent as the value of the goods under retention of title.

If the goods under retention of title are sold by the client together with other goods not purchased from us, then the accounts receivable arising from the resale will be transferred to us to the same proportion as the value of the goods under retention of title compared to the value of the other goods. With the resale of goods to which we have joint property rights in line with Point 2, then an appropriate portion thereof will be transferred to us commensurate with our joint property rights.

If the goods under retention of title are used by the client to fulfil plant or plant delivery contracts, then the accounts receivable arising from the plant or plant delivery contracts will be transferred to us to the same extent as stipulated in the previous paragraphs relating to the accounts receivable arising from resale.

5. The client is entitled to collect accounts receivable arising from resale, unless we countermand the direct debit authorisation.

At our request, the client is obliged to inform his customers immediately of the transfer to us if we do not do so and to give us the information and documents necessary for collection of payments.

The client is in no way entitled to further transfer of the accounts receivable. This also applies to factoring activities which are forbidden to the client due to our direct debit authorisation.

6. The client must immediately inform us of seizure of or other adverse effects regarding our property by a third party.

7. If the value of the existing securities exceed the secured demands by more than 10% in total, then we are obliged, at the client's request, to release securities of our choice.

8. The exertion of the retention of title does not signify withdrawal from the contract.

### **VIII. Copyright**

1. The purchaser bears full responsibility for infringements of copyright and must indemnify the seller if any third party proprietary demands are made against him.

Haufe GmbH is not obliged to gather information regarding proprietary circumstances

### **IX. Place of Jurisdiction and Applicable Law**

1. Insofar as nothing else has been agreed to in writing, the place of performance for our deliveries and services is our place of business in Weinheim/Bergstrasse, Germany.

German law only is to be applied to the entire contract, including all ancillary obligations, demands or other legal relationships pertaining thereto, whereby UN purchasing law and the standard international purchasing laws, as well as other conventions regarding the right of the purchase of the goods are excluded.

If the purchaser is a merchant or entrepreneur, Weinheim as the place of jurisdiction is mandatory.

### **X. Severability clause**

If any individual term of this contract should become completely or partially invalid, then this must be replaced by a term agreed on by all parties which comes closest to the purpose expressed in the condition which has become null and void. The validity of the remaining terms is not affected by this.