

General Terms and Conditions of Sales of Hemscheidt Fahrwerktechnik GmbH & Co. KG, Haan-Gruiten

I. Scope of Validity / Offers

1. These general terms and conditions of sales shall be valid exclusively for all present and future contracts and other commercial performances of Hemscheidt Fahrwerktechnik GmbH & Co. KG ("Hemscheidt"). The applicability of the customer's terms and conditions (if any) is expressly excluded. Different terms and conditions will not be accepted tacitly, by conduct or by the sale of goods / services by Hemscheidt.
2. Alterations or additions to these general terms and conditions of sales and to orders based on these terms and conditions must be made in writing, accepted and signed by Hemscheidt. This applies equally to a waiver of the written form requirement.
3. Hemscheidt's offers are subject to change. Hemscheidt's written order confirmation is final and conclusive. Any documents submitted with the offer such as catalogs, prospectuses, illustrations, drawings and technical data contain only approximate statements and descriptions and do not constitute any quality specifications or any guarantees unless explicitly stipulated otherwise in writing by Hemscheidt.
4. Deviations of the goods / performances from offers, specimens, samples and prior deliveries are permitted pursuant to the respectively valid DIN standards or other usually applicable technical standards. Dimensions shall be determined according to the DIN standards. DIN standards shall be – as far as applicable – the basis of each contract.

II. Prices

1. Unless agreed otherwise, the prices are stated in EURO, generally EX WORKS Haan-Gruiten in accordance with INCOTERMS Incoterms 2010, and plus VAT respectively.
2. The customer shall bear all and any unforeseen additional costs arising from carrying out the delivery and for which no price surcharges have been agreed, unless Hemscheidt is directly responsible for such circumstances.
3. If forecasted quantities (total amount or yearly quantity) on which the price calculation was based cannot be reached, Hemscheidt shall be allowed to charge the not called delivery at the end of the year or each delivery period considering saved expenses unless Hemscheidt is responsible for not reaching the forecasted quantities.
4. If, as an exception, prices are agreed in a foreign currency, then the agreed price shall be based on the conversion rate of the EURO to the respective foreign currency quoted in Germany on the day on which the order is confirmed. If this rate changes prior to the payment due date, then either party may demand corresponding price adjustments.

III. Payment

1. Payment must be made cash or via bank transfer within 30 days net, as from invoice date respectively. The invoiced amount shall be available for Hemscheidt latest on the due date.
2. The customer is not entitled to withhold or to set-off of any amounts against amounts owed to Hemscheidt unless a final court judgment has been decided in favor of the customer.
3. If circumstances become known to Hemscheidt subsequent to the conclusion of the contract that indicate a substantial deterioration in the customer's financial situation and that put Hemscheidt's payment claims at risk, especially in case of the circumstances mentioned in section V(9), or if a reduction or cancellation of the customer's limit by the commercial credit insurer in the scope of Hemscheidt's commercial credit insurance has been made, all outstanding payments from the customer to Hemscheidt shall forthwith become due and payable to Hemscheidt and Hemscheidt shall be entitled to demand securities as well as to prohibit the resale or processing of goods. If the customer is

in default of payment, Hemscheidt shall be entitled to repossess delivered goods at the customer's expenses after setting an appropriate period of grace, to withdraw from the contract, and to ask for reimbursement of expenses and damages for delay amounting at least up to 9 (nine) percentage points above the base rate.

IV. Delivery periods / Force Majeure

1. Delivery is ex works (Incoterms 2010). Delivery periods are not binding unless explicitly confirmed by Hemscheidt in writing.
2. Delivery dates, and especially binding delivery periods, commence on the date of Hemscheidt's written order confirmation but not before the receipt of the order and full technical clarifications of the order and/or before an agreed advance payment is credited to Hemscheidt's account. If subsequent alterations are requested by the customer and accepted by Hemscheidt in writing, then delivery dates and delivery periods will be extended for an appropriate time.
3. Delivery dates and delivery periods will also be appropriately extended in case of force majeure events such as labor disputes, especially strikes and lockouts, and in the occurrence of unforeseeable hindrances beyond Hemscheidt's control, insofar as such hindrances have a significant impact on the manufacture or delivery of the goods. This applies equally if such circumstances occur at suppliers and sub-suppliers of Hemscheidt. Hemscheidt shall immediately notify the customer of such circumstances. If the execution of the contract becomes unreasonable for one of the parties, then the respective party may insofar withdraw from the contract.
4. The date of delivery is the date the goods are ready for dispatch and Hemscheidt has given due notice thereof.

V. Retention of title

1. All delivered goods remain Hemscheidt's property ("Reserved Goods") until all obligations arising out of or in connection with the business relationship – including future and conditional claims – are fulfilled by the customer.
2. Combination, intermixture and processing of the Reserved Goods will be undertaken for Hemscheidt as the manufacturer ("Processed Goods"). The Processed Goods are deemed to be Reserved Goods within the meaning of section V(1). If the customer processes, combines and/or mixes the Reserved Goods with other goods, Hemscheidt will become the joint owner of the new goods in the ratio of the invoice value of the Reserved Goods to the invoice value of the new goods. If Hemscheidt's ownership extinguishes by combining, intermixing and/or processing of the goods, the customer shall transfer the ownership of the new stocks or goods to the amount of the invoice value of the Reserved Goods to Hemscheidt and shall safeguard the said rights for Hemscheidt free of charge. The goods owned jointly are deemed to be Reserved Goods within the meaning of section V(1).
3. The customer is allowed to sell the Reserved Goods in the course of usual business under usual conditions of business for as long as he is not delayed with his payment, and under the condition that any claims arising out of or in connection with the reselling are assigned to Hemscheidt pursuant to sections V(4) to V(6). The customer is not entitled to dispose of the Reserved Goods in any other way.
4. Any claims of the customer arising out of or in connection with the resale of the Reserved Goods shall be assigned to Hemscheidt ("Assigned Claims"). The Assigned Claims serve as bail to the same extent as the Reserved Goods. If the customer sells the Reserved Goods together with goods not owned by Hemscheidt, the assignment of claims from the reselling is only valid to the extent of the reselling value of the respectively sold Reserved Goods. If goods are jointly owned by the customer and Hemscheidt according to

V(2) and are sold by the customer, then the assignment of claims will only be valid to the extent of the co-ownership ratio.

5. The customer is entitled to collect receivable claims from the reselling until Hemscheidt's revocation which may be exercised at any time. At Hemscheidt's demand, the customer is obliged to immediately inform his customer about the assignment to Hemscheidt and to give Hemscheidt all information and documents required for the collection.
 6. The customer is obliged to immediately notify Hemscheidt of a garnishment or other infringements of rights through third parties.
 7. If the value of existing bails exceeds the value of the secured receivable claims by more than 10 percent in total, Hemscheidt shall release bails of Hemscheidt's choice at the request of the customer.
 8. The customer shall make all declarations, submit applications and recourse to other measures necessary and appropriate to secure Hemscheidt's proprietary rights. Particularly in the case of orders from abroad, the foreign customer is obliged to cooperate in every respect and to comply with the respective formal requirements to realize the reservation of proprietary rights or a corresponding collateralization (e.g. ordering a right of lien).
 9. In case of cessation of payments, the submission of an insolvency application, the commencement of insolvency proceedings or court proceedings as well as in the case of a challenge of such proceedings due to a lack of assets, the right to resell, dispose and install the reserved goods, and the collection authorization of the respective claims cease. Hemscheidt is entitled to retrieve the goods. If the customer has combined, intermixed or processed the goods Hemscheidt is entitled to collect the goods by means of invoice documents in accordance with the customer. If the customer does not cooperate, Hemscheidt will be entitled to select the goods on its own with the help of an expert.
- ## VI. Dispatch of deliveries / Transfer of risk / Package / Intra-Community Supply
1. The risk passes to the customer once the goods are handed over to a forwarder or carrier, but at the latest, however, when leaving Hemscheidt's warehouse or – in the case of third party transactions – the dispatching ex works (Incoterms 2010). If shipping is delayed due to circumstances beyond the control of Hemscheidt, the risk passes with the notification of readiness for shipment.
 2. Hemscheidt shall decide the shipment route and means of transport, as well as the forwarder or the haulage contractor, unless agreed otherwise in writing.
 3. The goods will be delivered packed. Hemscheidt shall invoice the packaging at cost as disbursement. Shuttle packaging must be returned to Hemscheidt in a usable condition within an appropriate period of time and transport to Hemscheidt works must be paid by the customer.
 4. Hemscheidt is entitled to carry out partial deliveries to a reasonable extent. Excess and short deliveries of manufactured goods deviating by up to five percent (5%) from the agreed quantity are permissible.
 5. In the case of call-off orders, Hemscheidt shall be entitled to manufacture or have manufactured the order quantity for 6 months in a single closed batch. Any alterations subsequent to the order will not be considered, unless expressly agreed otherwise in writing by Hemscheidt. Unless firm agreements were concluded, call dates and quantities can only be complied with within the framework of Hemscheidt's delivering or manufacturing possibilities. If the goods cannot called in accordance with the order Hemscheidt will be entitled to bill the goods after a reasonable grace period.

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6. In case of deliveries into other EU member states ("Intra-Community Supply") the customer is obliged to support Hemscheidt with any reasonable assistance in order to prove the Intra-Community Supply. In particular, Hemscheidt can request a signed and dated confirmation of the Intra-Community Supply containing at least: name and address of consignee, quantity and commercial description of the goods and place and date of receipt of goods. If the customer does not comply with the aforesaid obligation, the customer will be liable for any damages resulting thereof. The customer shall in particular compensate any value added tax (VAT) imposed on Hemscheidt.

VII. Warranty and liability

1. The customer will solely be responsible for the correctness and completeness of any specifications and specified dimensions given to Hemscheidt in the customer's orders, and other statements or requirements to enable Hemscheidt to fulfill its contractual and legal obligations. Errors on the part of the customer do not constitute a default in Hemscheidt's performances.

2. The customer shall immediately inspect the delivered goods and report recognizable defects in writing immediately, at the latest within 10 (ten) days after the performance to Hemscheidt. Defects that were not recognizable during the inspection must be reported in writing immediately, at the latest within 10 (ten) days following discovery. The afore mentioned periods will only apply insofar as the Convention on the Contract for the International Carriage of Goods by Road (CMR) does not indicate any shorter terms.

3. Hemscheidt will remedy justifiably asserted defects by supplementary performance by way of repair or replacement delivery. If the subsequent fulfillment fails twice within an appropriate period of time set for this purpose, then the customer may withdraw from the contract or appropriately reduce the price/remuneration.

4. Warranty claims will be barred 12 (twelve) months after the transfer of risk. In case of supplementary performance, the warranty periods will not start anew.

5. Any recourse entitlements of the customer against Hemscheidt pursuant to section 478 German Civil Code (BGB) are given only insofar as no agreements going above and beyond the statutory warranty entitlements were concluded in the delivery chain between Hemscheidt and the customer.

6. A warranty will only be given under the condition that the goods are properly maintained and handled. No warranty will be assumed for damages arising from without being limited to the following reasons: improper use, incorrect assembly or commissioning by the customer or third parties, natural wear and tear, erroneous and careless handling, unsuitable auxiliary working materials or replacement materials. All warranties are void if the customer or third parties carry out alterations and/or maintenance works improperly without Hemscheidt's prior written approval.

7. The customer is only entitled to claim supplementary performance if he has submitted the rejected good or a sample hereof to Hemscheidt. Expenses associated with the subsequent fulfillment are solely borne by Hemscheidt as far as they are adequate in relation to the purchase price.

8. Damage compensation claims of the customer, for whatever legal reason, especially due to breach of contractual obligations and/or from unlawful acts, are excluded. This shall not apply to cases of willful misconduct or gross negligence, or to claims due to injury to life, body or health, to liability pursuant to product liability, to a guarantee that Hemscheidt may have accepted, to a damage caused by a culpable breach of essential contract duties, or in other cases of

mandatory statutory liability. Essential contract duties are the respective contractual main duties, as well as any side duties of the contract that in case of a breach of duty can endanger the fulfillment of the contract purpose. The liability for the breach of essential contract duties is, however, restricted to the compensation for foreseeable contract-typical damages.

9. Other claims than the one mentioned in section VII(4) expire within 6 (six) months following the customer's notice respectively the point of time the customer negligently did not give notice if the customer cannot prove that a notice can be given at a later point of time in the individual case.

VIII. Copyrights

1. Hemscheidt reserves the proprietary rights and copyrights to all cost estimates, designs, drawings and other documents. They may only be made accessible to third parties with Hemscheidt's prior explicit written consent. Drawings and other documents pertaining to offers must be returned on demand.

2. When ordering goods from Hemscheidt according to drawings, models, specimens or other documents provided by the customer, the customer guarantees that third party intellectual property rights are and will not be infringed by manufacturing the goods according to the provided documents. If third parties claim to hold intellectual property rights prohibit the manufacturing and delivering of the ordered goods, Hemscheidt will be entitled – without being obliged to scrutinize the legal situation – to thus far cease any further activity and to demand compensation for damage if the customer is at fault. The customer shall further indemnify Hemscheidt against all third party's claims arising out of or in connection with the infringement on first demand.

IX. Test components, molds, tools

1. If the customer has to provide parts for undertaking the order, then these parts must be delivered carriage-free and at the customer's own risk to the place of production in the agreed quantity, or in an appropriate excess quantity for any wastage, in due time, free of charge and without defects. If the parts are not delivered in time, the customer shall bear the costs and other consequences caused by the delay. Hemscheidt can only be held liable for the diligence exercised in own matters with regard to machines and tools applied in manufacture and provided by the customer. The customer shall bear the costs for maintenance, care and replacement of the machines and tools if nothing different has been agreed upon between the parties.

2. The manufacture of trial parts, including the costs for molds and tools, shall be borne solely by the customer.

3. Unless expressly agreed otherwise, Hemscheidt shall be and remain the owner of trial parts, molds and tools manufactured by Hemscheidt or on its instructions. Insofar as necessary for fulfillment of the agreed output quantity, Hemscheidt shall provide cost-free replacement of molds and tools that have become unusable, unless the customer is responsible for the uselessness. Hemscheidt shall use these parts solely for purposes of the customer. This restriction of use shall not apply if, despite a subsequent reminder and setting of a period of grace, the customer fails to pay and to fulfill his acceptance obligations towards Hemscheidt. Hemscheidt shall safekeep these parts for the duration of two years following their last implementation for the customer. At the request of the customer the parts shall be insured at the expenses of the customer.

4. If the customer should become the owner of the molds and tools pursuant to an express agreement, then the ownership thereof passes to the customer only after complete settlement of the order for which these molds and tools were manufactured, including complete payment of the full remuneration. If the customer does not assert his

right to have these items surrendered to him, then Hemscheidt shall, unless explicitly agreed otherwise, not be obligated to safekeep these parts free of charge for longer than two years. The safekeeping shall be carried out at the risk of the customer.

X. Confidentiality

The customer shall keep all information arising directly or indirectly out of the business relation in strict confidentiality. The customer shall use the submitted information solely for the purpose of the order, however not for its own purposes unless Hemscheidt has given its prior written consent. Information that the customer has legally received from third parties in a non-confidential way as well as free accessible information will not be comprised.

XI. Final Provisions

1. The place of fulfillment for all deliveries / performances shall be Hemscheidt's facilities in Kassel unless agreed otherwise.

2. The place of jurisdiction shall be Hemscheidt's place of business in Haan-Gruiten. Hemscheidt may also bring a suit against the customer before the court competent for the customer's place of business.

3. All legal relationships between Hemscheidt and the customer are subject to the laws of the Federal Republic of Germany under exclusion of the uniform UN Convention on Contracts for the International Sale of Goods (CISG).

4. Any part of the contract or of these general conditions and terms of purchase which is illegal, void, prohibited or unenforceable shall be ineffective to the extent of such illegality, prohibition or unenforceability without invalidating the remaining terms and conditions hereof. An effective provision which complies economically with the intent of Hemscheidt, shall to the most possible extent replace the void part. The same applies in case of a loophole.

5. In cases of doubt regarding the wording or translation, the original German language version of these General Terms and Conditions of Sales shall prevail.