

## **General terms and conditions of sale of Huchtemeier Papier GmbH**

### **I. General**

1. These general conditions of sale shall apply to all deliveries, services and quotations of Huchtemeier Papier GmbH, hereinafter referred to as "Huchtemeier".

2. Also including future contracts, they shall apply to all contracts for deliveries and other services, thus also to contracts for services and contracts for work done and materials supplied.

3. This shall also apply in the case of the customer making notification of differing general terms and conditions of business of his own. These shall not be included. Separate rejection on the part of Huchtemeier shall not be necessary.

### **II. Acceptance of order**

1. Huchtemeier's quotations are subject to change and without engagement. They shall only become binding with the issue of Huchtemeier's confirmation of order. This shall also apply to verbal agreements and promises. Guarantees in particular shall not be included in this.

2. The details, drawings, illustrations, technical data, descriptions of weight, dimensions and performance contained in brochures, catalogues, newsletters, advertisements and price lists or in the documents belonging to a quotation shall always be subject to change and shall not lead to a quality agreement unless these points are either expressly identified in the confirmation of order as binding or included.

### **III. Prices**

1. The prices shall be understood as net cash in EUROS, ex works plus V.A.T. or other local taxes insofar as another agreement shall not be made.

2. The despatch packaging is not a component part of the mentioned prices unless another agreement is reached. The packaging will not be taken back.

3. The prices and conditions shall apply that have become the subject matter of the contract unless another agreement is reached. In the event that charges shall change later than 6 weeks after conclusion of the contract or if other external costs shall arise that are included in the agreed price or if they emerge, Huchtemeier shall be entitled to make a price alteration on an appropriate scale.

4. The prices are calculated on the cost basis of the quotation. In the event that material prices, wages, currencies or other cost factors such as those for energy, disposal or public charges shall change, Huchtemeier reserves the right to make a price adjustment after notifying the customer in good time.

5. All public charges (taxes, fees, customs duties, etc.) that are incurred from or in connection with the conclusion or handling of the contract outside of the Federal Republic of Germany shall be borne by the customer.

#### **IV. Payment and offset**

1. All periods allowed for payment shall begin on the date of the invoice. Payments for the purpose of satisfying Huchtemeier's claims on the customer must be made in cash pursuant to the payment conditions we have granted. Unless defined otherwise or stipulated differently on the invoice form, payment must be made without deduction within 30 days after the date of the invoice.

In the case of transfers to one of the bank accounts stated by Huchtemeier as well as in the case of payment by cheque, payment shall not be deemed to be made until it is credited unconditionally to a Huchtemeier account.

2. In the event that Huchtemeier shall accept bills of exchange, payment shall not be regarded as made until discharge of the bill of exchange. The customer shall pay the discount and bank charges as well as the taxes incurred by this.

3. Huchtemeier shall not be responsible for bills of exchange or cheques being submitted, protested or collected in good time and in due form.

4. In the event that the customer shall fall behind with a payment in whole or in part, Huchtemeier shall be entitled in commercial dealings to charge interest as from the relevant point in time at the respective valid debit interest rate of the clearing banks, however at a minimum of 8 percentage points p.a. over and above the respective base lending rate. Furthermore, an administrative costs lump sum of 5 % p.a. shall become due.

5. In the event that the customer shall fall behind with a payment for longer than 3 weeks or shall not honour a cheque or a bill of exchange on the due date or if doubts as to his ability to pay shall arise for another reason, all existing payment obligations of the customer vis-à-vis Huchtemeier shall become due for immediate payment, namely regardless of the term of any incoming bills of exchange. Furthermore, Huchtemeier shall be entitled to demand the provision of securities on account of all other accounts receivable, to only carry out outstanding deliveries against advance payment or provision of securities, to prohibit the handling, processing and/or resale of the goods in our ownership or co-ownership and to demand their surrender.

6. Offsets on the part of the customer shall be excluded unless the counterclaim has been recognised by declaratory judgement or acknowledged by Huchtemeier.

7. Payments (including part payments and payments on account) shall always be used to settle the oldest account payable in each case and the interest accumulated thereon.

8. Without the consent of the customer, Huchtemeier shall be entitled to transfer to third parties, in whole or in part, due or future monetary claims arising from the contractual relationship or to pledge these. A ban on assignment or consent requirement in the terms and conditions of business of the customer are hereby expressly rejected.

## **V. Conclusion and content of the contract, transfer of risk and delivery**

1. The conclusion and the content of the contract comply with Huchtemeier's written confirmation of order. In the event that this deviates from the customer's order, it is nevertheless authoritative if the customer shall not immediately object to this or if he accepts the Huchtemeier delivery or service without reservation or provides this himself without reservation.

2. The risk shall transfer to the customer upon notification of the readiness for despatch unless Huchtemeier has expressly assumed the despatch of the goods and the associated risks by means of an appropriate written agreement. This shall also apply if partial deliveries take place or Huchtemeier has assumed other services.

The acceptance or receipt of the goods must not be refused on account of insignificant defects.

In the event that dispatch or acceptance shall be delayed independent of any blame on Huchtemeier's part, the risk shall transfer to the customer upon readiness to accept.

3. The customer shall bear the costs of packaging, loading, freight and fitting inasfar as no other written agreement has been reached.

## **VI. Time-limits and deadlines**

1. Huchtemeier's delivery commitment shall be subject to punctual and correct delivery to themselves. Something else shall only apply if Huchtemeier shall bear the responsibility for the incorrect or belated delivery or failure to deliver respectively.

2. Binding deadlines for delivery (delivery dates) must be expressly agreed as such. An agreed time-limit for delivery (delivery date) shall not begin until the receipt by the customer of our written confirmation of order, however not before the provision of the details, technical data and documents to be furnished by the customer. Fixed dates shall only then be agreed as fixed dates as defined by the Commercial Code if they are expressly identified as such.

3. Alterations or enhancements of the original size of the order agreed after conclusion of the contract shall extend or reschedule the original delivery time-limits or deadlines appropriately, also without being subject to separate notification.

4. The delivery dates shall be regarded as complied with upon notification of readiness for despatch or at the point in time despatch is made ex works.

5. The delivery date shall be postponed appropriately in the case of strike and lockout, omitted or unpunctual supply to Huchtemeier, in cases of force majeure as well as the occurrence of unforeseen events that are outside of Huchtemeier's control. Huchtemeier will notify the customer of the occurrence and estimated duration of events of this kind.

The delivery date shall also be postponed if the customer falls behind with his payment and other obligations, namely for the duration of the arrears. If technical and/or commercial questions remain unsettled the delivery date shall be postponed by the time necessary in order to clarify questions of this kind.

As long as Huchtemeier shall not be responsible for the events stated in number 5, the customer shall not be able to withdraw or terminate.

6. Insofar as Huchtemeier shall be in default of delivery and damages arise for the manufacturer due to the delay, he shall be entitled to a maximum claim of  $\frac{1}{2}$  % for compensation for delay for every full week of the delay, in all however a maximum of 5 % of the purchase price of the partial delivery that cannot be used on time or not according to contract on account of the delay.

The customer shall be able to reserve the right to provide proof of greater default damages.

The right to withdraw from or terminate the contract under the legal pre-requisites on account of a delay in delivery for which Huchtemeier is responsible following the fruitless expiry of a reasonable time-limit set by the customer for performance, shall remain unaffected by this.

7. Compensation claims by the customer against Huchtemeier, their institutions, their legal representatives and/or those persons employed in performing an obligation for whom they are vicariously liable for damages and reimbursement of expenses in excess of this shall be excluded. This shall not apply insofar as Huchtemeier, their institutions, their legal representatives and/or those persons employed in performing an obligation for whom they are vicariously liable shall be guilty of intent or gross negligence and/or upon infringement of fundamental contractual obligations. In the case of the infringement of fundamental contractual obligations the scope of the liability shall, however, be restricted to compensation for the typical foreseeable damage if Huchtemeier, their institutions, their legal representatives and/or those persons employed in performing an obligation for whom they are vicariously liable shall only be guilty of slight negligence, whereby this restriction of the scope of liability shall be valid for every negligence in the case of simple persons employed in performing an obligation for whom they are vicariously liable.

8. Insofar as Huchtemeier shall be in default of delivery, the customer shall at Huchtemeier's request declare within a reasonable time-limit at what altered point in time the delivery should take place. In the event that transport shall be delayed after readiness for despatch takes effect for reasons for which Huchtemeier is not responsible, the customer shall be charged as from the notification of the readiness for despatch for the costs incurred due to storage, and in the event of storage in Huchtemeier's factory at a minimum of ½ % of the net settlement amount for every month. The customer shall be able to reserve the right to provide proof of lesser storage costs. Any claims by Huchtemeier in excess of this shall remain unaffected.

9. The following shall apply in case the customer has his registered office in Germany: the customer and Huchtemeier shall come to the following agreement for offset in insolvency according to Article 94 of the Insolvency Act: in the case of insolvency on the part of the customer Huchtemeier's claims on the customer shall become due for payment when the insolvency proceedings are opened, even if they had not otherwise been due for payment at this point in time. In the event of a court order for preliminary insolvency proceedings, the due date shall set in with the court order. This shall also apply in reverse for claims of the customer in the case of Huchtemeier's insolvency.

## **VII. Reservation of title and taking back**

1. The delivery item shall remain the property of Huchtemeier until entire fulfilment of all claims that have arisen in connection with the delivery contract.

2. All machining and processing by the customer or third parties of the delivery item subject to reservation of title as well as its connection to third party property shall be carried out for Huchtemeier. Huchtemeier shall be entitled to co-ownership of the emerging items corresponding to the value of the delivery item.

3. The customer shall be entitled to resell the sales item in the regular course of business.

The customer shall already now assign to Huchtemeier all claims arising from the resale of the delivery item in order to secure their claims, namely regardless of whether the delivery item was resold without or after processing.

4. Upon demand by the customer, Huchtemeier shall undertake to release the securities to which they are entitled inasmuch as the appraised value of the securities does not just temporarily exceed the value of the claims to be secured including the costs by more than 50% at the point in time of the demand for release. The choice of the claims to be released shall be incumbent upon Huchtemeier.

5. The customer shall be obligated to treat the delivery item with care; he shall, in particular, be obligated to insure this at delivery value at his own expense against fire, damage by water and theft.

6. In the case of behaviour of the customer contrary to the contract, in particular in the case of default of payment, Huchtemeier shall be entitled to take back the delivery item and the customer shall be obligated to hand the delivery item over.

On account of the reservation of title, Huchtemeier can, however, only demand surrender of the delivery item if Huchtemeier shall have withdrawn from the contract. In the case of the taking back of the delivery item Huchtemeier shall, without proof of loss, be entitled to offset a decrease in value of 25 % for the first six months of the use of the delivery item and a decrease in value of 5 % for every further six months for the customer's account. The right of the customer to provide proof of a lesser decrease in value shall remain unaffected by this.

7. The customer must not pledge the delivery item and transfer it to third parties as security.

8. The customer shall inform Huchtemeier immediately in the event of garnishments or other damnifications of the owner's interests.

### **VIII. Trademark rights**

1. All trademark rights to the delivery item or parts thereof that were already applied for by Huchtemeier at the point in time of the conclusion of contract or trademark rights granted to Huchtemeier, other existing trademark rights as well as existing copyrights shall remain in the exclusive ownership of Huchtemeier irrespective of the sale and the delivery to the customer.

2. A transfer of these rights as well as the awarding of licences or suchlike to the customer shall be excluded.

## **IX. Transport**

1. Insofar as another agreement shall not be reached, the goods shall be provided for despatch in an unpacked condition and not protected against water. Huchtemeier shall arrange for packagings, protection and/or transport equipment in accordance with their experience and for the customer's account.
2. Goods that have been reported ready for despatch as provided in the contract must be called up immediately as, following a reminder, Huchtemeier shall otherwise be entitled to despatch them at their choice for the customer's account and risk or at their own discretion to store and charge for them immediately.
3. Insofar as another agreement shall not be reached, the despatch route, means of despatch, forwarding agent and haulier shall be determined by Huchtemeier for the customer's account and risk. For all business transactions, also carriage free and free delivery, the risk, also that of confiscation of the goods, shall be passed to the customer upon handing over of the goods to a forwarding agent or haulier, at the latest however when the delivery item leaves the supplying plant. Huchtemeier shall only provide insurances following instructions from the customer and for his account. The customer shall bear the unloading obligation and the unloading costs.
4. In the event that transport via the planned route or to the planned location is not possible at the planned time without any fault of Huchtemeier, Huchtemeier shall be entitled to make delivery by another route or to another location; the customer shall bear the arising additional costs. The customer will be given an opportunity to comment prior to this.
5. To a reasonable extent, Huchtemeier shall be entitled to make partial deliveries. Excess or short deliveries of the agreed quantity customary in the trade shall be admissible.
6. Huchtemeier shall be notified of calls and type allocations for roughly similar partial quantities in the case of conclusions with ongoing delivery; Huchtemeier shall otherwise be entitled to determine this at their sole discretion. In the event that the quantity according to the contract is exceeded by the individual calls, Huchtemeier shall be entitled but not obligated to deliver the excess. Huchtemeier shall be able to charge the customer for the excess at the prices valid at the time of the call or the delivery.

## **X. Impairment of performance and defects**

1. Insofar as the obligation to perform shall be or can be excluded for reasons stated in law (Article 275 BGB = German Civil Code), the customer shall be able to claim compensation for damages and/or withdraw from the contract unless Huchtemeier shall not be responsible for the reason that led to the exclusion of the obligation to perform. The customer's claim to compensation for damages shall, however, be restricted to 10% of the value of that part of delivery that cannot be used in good time or not as provided in the contract on account of the exclusion of the obligation to perform. Claims to compensation for damages in excess of this

on account of the exclusion of the obligation to perform shall conform exclusively to section X of these conditions.

2. In the event of partial performance the customer shall only be able to withdraw from the contract if the partial performance is verifiably of no interest to him; in the event that the customer is accordingly not entitled to withdrawal, he can demand a reasonable reduction of the return service or refuse payment for the part of the performance for which the obligation to perform is excluded. Likewise, withdrawal shall be excluded if the customer is solely or largely and predominantly responsible for the circumstance leading to the exclusion of the obligation to perform or if the customer is in default of acceptance and Huchtemeier is not responsible for the circumstance leading to the exclusion of the obligation to perform. In these cases the customer shall remain obligated to return service.

3. Insofar as strike and lockout, cases of force majeure or the occurrence of other unforeseen events outside of Huchtemeier's control shall considerably alter the economical relevance or the contents of the delivery or have a considerable impact on Huchtemeier's operations and these stated events are not only of a temporary nature, the contract shall be adapted adequately in good faith. Insofar as this is not economically justifiable, Huchtemeier shall be able to withdraw from the contract or to terminate the contract for an important reason in case this involves a continuous delivery relationship.

4. No claims shall exist on account of insignificant defects of quality or defects in a part of the delivery as far as the rest is reasonably utilisable for the customer. This shall also apply to cases of natural wear or damages, in addition after the transfer of risk as a result of incorrect or careless treatment, excessive stress and other external influences that arise and for which Huchtemeier are not responsible.

5. Claims on account of defects shall also not exist if the customer has neglected to carefully examine the item of delivery immediately after delivery by Huchtemeier insofar as this is expedient in the regular course of business and to immediately complain to Huchtemeier in writing regarding the detected defects. In the event that defects cannot be detected in spite of the examination (hidden defects), these must be notified in writing immediately after discovery. In the event that timely written notification shall not be made, the claims on account of defects of this kind shall be excluded.

6. In the case of a justified notification of defects, Huchtemeier shall, at option, make a new delivery (supplementary performance) or repair insofar as this shall be possible. Huchtemeier shall be able to reject supplementary performance if this is linked to unreasonable time and effort and/or costs. In the event that the customer has set Huchtemeier a reasonable time-limit for supplementary performance that has elapsed fruitlessly, the customer shall be able to withdraw from the contract or to terminate in the case of contracts with continuous delivery or to reduce the remuneration.

7. Claims by the buyer against Huchtemeier, their institutions, their legal representatives and/or those persons employed in performing an obligation for whom they are vicariously liable for compensation for damages and reimbursement of expenses in excess of this shall be excluded. This shall not apply insofar as Huchtemeier, their institutions, their legal representatives and/or those persons employed in performing an obligation for whom they are vicariously liable shall be guilty of intent or gross negligence and/or upon infringement of fundamental contractual obligations. In the case of the infringement of fundamental contractual obligations the scope of the liability shall, however, be restricted to compensation for the typical foreseeable damage if Huchtemeier, their institutions, their legal representatives and/or those persons employed in performing an obligation for whom they are vicariously liable shall only be guilty of slight negligence, whereby this restriction of the scope of liability shall be valid for every negligence in the case of simple persons employed in performing an obligation for whom they are vicariously liable.

8. Subject to another agreement with the customer, the period of warranty shall amount to 12 months as from transfer of risk.

## **XI. Liability and indemnification**

1. Insofar as something else shall not arise from these general conditions of delivery or applicable mandatory legal regulations, claims by the buyer against Huchtemeier, their institutions, their legal representatives and/or those persons employed in performing an obligation for whom they are vicariously liable, irrespective of the cause in law, in particular on account of infringements of the relationship under the law of obligations and/or from a tortious act, for compensation for damages and reimbursement of expenses shall be excluded. This shall not apply insofar as Huchtemeier, their institutions, their legal representatives and/or those persons employed in performing an obligation for whom they are vicariously liable shall be guilty of intent or gross negligence and/or upon infringement of fundamental contractual obligations. In the case of the infringement of fundamental contractual obligations the scope of the liability shall, however, be restricted to compensation for the typical foreseeable damage if Huchtemeier, their institutions, their legal representatives and/or those persons employed in performing an obligation for whom they are vicariously liable shall only be guilty of slight negligence, whereby this restriction of the scope of liability shall be valid for every negligence in the case of simple persons employed in performing an obligation for whom they are vicariously liable. Furthermore, the liability shall also not then be restricted if Huchtemeier's liability shall be compulsory by law, e.g. according to the Product Liability Act, and/or injury of life, body and health.

2. As for the rest, Huchtemeier shall, however, be liable towards the customer to the extent to which Huchtemeier's existing business liability insurance provides compensation. The "General Insurance Provisions for Liability Insurance (AHB)" form the basis of the business liability insurance.

3. The legal statutes of limitation shall apply to all claims for the compensation of damages.

4. The customer shall indemnify Huchtemeier from those claims of third parties insofar as third parties assert claims against Huchtemeier, the aforementioned necessary prior written

consent on the part of Huchtemeier is not, however, available and a cause of damage is not identifiable in Huchtemeier's area of responsibility.

## **XII. Warranty**

1. The acceptance by Huchtemeier of warranties and feature descriptions or of the procurement risk must take place explicitly, be identified as such and requires the written form.

2. All other information forwarded to the customer by Huchtemeier shall not at any time constitute a warranty or acceptance of the procurement risk.

## **XIII. Withdrawal by Huchtemeier**

1. Huchtemeier shall be able to withdraw from the contract in whole or in part if the opening of insolvency proceedings regarding the assets of the customer is applied for or if the opening is rejected, if Huchtemeier receives written credit information showing that the customer is unworthy of credit or the customer discontinues or threatens to discontinue his business operations for other reasons.

Furthermore, Huchtemeier shall be able to withdraw from the contract in whole or in part if the delivery date is postponed in accordance with Article VI no. 5 of these conditions and Huchtemeier is no longer interested in the delivery as a result of the delay. The right of extraordinary notice of termination shall supersede the right of withdrawal in the case of continuous delivery relationships.

Huchtemeier shall ultimately have a right of withdrawal if fundamental circumstances that formed the basis upon conclusion of the contract have changed so severely that Huchtemeier cannot be reasonably expected to adhere to the contract.

2. The legal rights of withdrawal shall remain unaffected in this respect.

## **XIV. Place of performance, place of jurisdiction and applicable law**

1. Dortmund shall be the place of performance for our deliveries unless another agreement has been reached. At any rate, Huchtemeier shall also be able to bring action against the customer at his place of jurisdiction.

2. Local law shall apply to all legal relations between the customer and Huchtemeier excluding the provisions of the UN Convention on Contracts for the International Sale of Goods.

3. The court competent for the registered office of Huchtemeier shall be the place of jurisdiction i.e. the Local Court of Dortmund or the Regional Court of Dortmund – Chamber of Commercial Causes.