

**§1 General - Scope of application**

Our General Terms and Conditions shall apply exclusively to all our offers and contracts relating to the production and sale of our goods. These shall be deemed to be accepted at the moment of order placement and even when a buyer rejects the acceptance of other terms and conditions in its own terms and conditions. By placing an order, the buyer agrees to the validity of our General Terms and Conditions. This shall also apply if the buyer does not expressly object to the validity of our General Terms and Conditions, and the contract is carried out without objection. A lack of objection or lack of opinion on the terms of the buyer shall not be regarded in any way as acceptance or consent. Conflicting General Terms and Conditions of the buyer are hereby contradicted and shall not become part of the contract. Our confirmations of the order acceptance on the buyer's order documentation shall not affect the exclusive applicability of our General Terms and Conditions and serve merely to meet the IT requirements of the buyer. The recognition of one, more or all of the clauses of the buyer's terms shall be subject to a specific prior written agreement. Our General Terms and Conditions shall only apply to contractors within the meaning of § 310 paragraph 1 BGB (German Civil Code).

**§2 Offer validity**

Our offers are not binding. The orders issued shall only become binding upon a written confirmation from us.

**§3 Legal validity of orders and agreements**

If, in a specific case, we use written order confirmations, the order shall only become legally binding upon our confirmation of the order, the content of which is, in conjunction with our General Terms and Conditions, exclusively applicable to the contractual relationship. Phone and other verbal agreements, arrangements and individual agreements with our administrative and sales personnel require our written confirmation. The same shall apply to ancillary agreements, amendments or additions to the contractual agreements.

**§4 Prices**

Unless otherwise stated or confirmed by us, our prices shall be "delivery ex works": "ex works in the respective country of manufacture", for "delivery ex stock": "ex Renningen", plus packaging and the value added tax at the applicable rate. Prices are valid for four months from the date of conclusion of the contract. If a delivery period of more than four months is agreed, we shall be entitled to pass on to the buyer any increase in costs incurred in the interim in the procurement, manufacture, delivery, assembly, etc., through price increases on an appropriate scale. The prices shall apply to the number of pieces, materials and technical specifications shown in our offers. If these should change after order placement as a result of a circumstance beyond our control, we reserve the right to make a corresponding change to our services and prices. The occurrence of such a circumstance shall be communicated by us without delay with the relevant facts. If the buyer cannot reasonably be expected to agree to the change because of its avoidability, relevance or other important reason, he shall be entitled to immediately withdraw from the contract without any claims for damages. Should the buyer, in deviation from his inquiry or our offer, change the number of pieces, materials or technical specifications when placing the order, we reserve the right to refuse the order acceptance, to withdraw from our offer or to submit a new offer based on the changed facts.

**§5 Delivery deadlines**

Any delivery times quoted in offers shall be seen as indicative and are based on best estimates, taking into account the delivery situation and production capabilities on the date of the quote. Adherence to the delivery deadline is subject to the punctual and correct delivery by our own suppliers; should delays occur, we shall notify the buyer as soon as possible. If the delivery is not ex stock (stock goods are subject to prior sale), the delivery deadlines shall be agreed in detail, after clarification of all technical criteria, for which our written confirmation is essential. If non-compliance with the deadlines is due to force majeure, e.g. mobilization, acts of war, uprisings, natural catastrophes or similar events, e.g. strikes, lock-outs, fire, raw material shortages or other operational disturbances, the agreed upon deadlines shall be extended accordingly. If this resulting delay lasts longer than four weeks, we shall be entitled to terminate the contract at any time with immediate effect, without the buyer being entitled to any claims for compensation or reimbursement of expenses. The occurrence of such a circumstance shall be communicated by us without delay with the relevant facts. In the case of damage suffered by the buyer on account of a delivery delay on our part, the buyer shall be entitled to claim a lump-sum amount as compensation for the delay. The said amount will be equal to 0.5% for each full week of delay, but not more than 5% of the net value of the part of the delivery which cannot be used in due time or in a non-contractual manner as a result of the delay. Where, taking into account statutory exceptions, the buyer sets us a reasonable deadline for delivery subsequent to the due date, which is not met, the buyer shall be entitled to resign from the contract within the scope of statutory provisions. Further claims based on a delay in delivery shall be exclusively governed by § 7 of these Terms.

**§6 Claims for defects**

In the case of material defects and defects of title in the delivery of the goods, we shall provide the following warranty, subject to § 7:

Material defects:

All those parts shall be repaired or replaced free of charge at our discretion, which as a result of a circumstance occurring prior to the passage of risk, are found to be defective. The determination of such defects shall be reported to us immediately in writing. Replaced parts become our property. The buyer shall, following appropriate agreement, give us the opportunity and provide us with the necessary time in order to carry out all the necessary improvements and substitute deliveries; otherwise we shall be released from any liability for resulting consequences. Only in urgent cases such as the endangerment of operational safety or to avoid disproportionate damage, of which we shall be notified immediately, shall the buyer be entitled to correct the fault himself or by a third party and to demand reimbursement of the costs from us. Of the costs incurred as a result of the repair or replacement delivery, we shall, provided that the complaint is deemed justified, bear the costs of the replacement part including shipping. We shall also bear the costs of disassembling and installing as well as the costs of any necessary staffing, including travel expenses, insofar as no disproportionate burden for the supplier arises thereby. The buyer shall have the right to withdraw from the contract within the framework of the statutory provisions, if, giving consideration to the statutory exceptions, we allow a reasonable period set for subsequent performance due to two material defects. If there is only an insignificant defect, the buyer shall only be entitled to a contract price reduction. The right to reduction of the contract price shall otherwise be precluded. Any further claims are subject to § 7 below. No guarantee shall be given in particular in the following cases: Unsuitable or improper use, faulty assembly or commissioning by the buyer or third parties, natural wear and tear, faulty or negligent handling, improper maintenance, unsuitable operating materials. If the buyer or a third party makes improper repairs, we shall not be liable for the consequences. The same shall apply to any changes to the delivery item made without our prior consent.

Defects of title:

If the use of the delivery item leads to the infringement of industrial property rights or copyrights in Germany, we shall, at our expense, fundamentally grant the buyer the right to further use or modify the delivery item in a reasonable manner for the purchaser, so that the infringement no longer exists. If this is not feasible on commercially reasonable terms or within a reasonable period of time, the buyer shall be entitled to resign from the contract. Under these conditions, we shall also have the right to withdraw from the contract. The obligations referred to in the section entitled "Defects of title", shall be binding on us, subject to the provisions of § 7 below, in the event of industrial property right or copyright infringement.

They shall only exist, if the buyer immediately informs us of any industrial property right or copyright infringement, the buyer assists us to an appropriate degree in defending the claim that has been asserted in connection therewith or allows us to conduct modification measures as stipulated in the previous section, and if we retain the right to take all defensive measures, including out-of-court settlements, the defect of title is not based on instructions by the buyer and the legal infringement was not due to the fact that the buyer made unauthorised changes to the delivery items or used them in a manner not stipulated by the contract.

#### §7 Liability

We shall only be liable for damage not caused to the delivery item itself, for whatever legal reasons

- a. in the case of intent,
- b. in the case of gross negligence on the part of the owners/departments or senior employees,
- c. in the case of defects we have maliciously concealed or whose absence we have guaranteed,
- d. in the event of culpable injury to life, body and health,
- e. in the case of defects in the delivery item, to the extent that there is liability for personal injury or damage to property for private use under the Product Liability Act. In the case of culpable violation of essential contractual obligations, we shall also be liable in the case of gross negligence of non-executive employees and in the case of minor negligence, in the latter case limited to reasonable, foreseeable, typical contract damage. Further claims are excluded.

#### §8 Limitation period

All claims of the buyer, irrespective of the legal grounds, shall expire in 24 months. The statutory periods shall apply to compensation claims pursuant to § 7 above. These shall also apply in the case of defects to a structure, or to products supplied which are used for a structure in accordance with their normal use, which have caused defects in said structure.

#### §9 Tools

Contributions made by the buyer to forms and other tools and technical equipment produced by our suppliers, shall not extinguish our exclusive rights to ownership and our supply plants, unless agreed otherwise in a separate contract.

#### §10 Drawing parts / Industrial property rights

For special designs of parts according to the drawings presented by the buyer, only the inquirer or buyer bears the risk of a violation of industrial property rights. In the event of culpable breach of such proprietary rights, the inquirer or the buyer shall indemnify us from any claims by third parties.

#### §11 Outturn samples / Prototypes

When the buyer orders parts according to a sample or a drawing, he shall be presented with outturn samples for written approval. Complaints after the approval of the outturn samples shall not be accepted, provided the delivered parts are in conformity with the samples.

#### §12 Call orders

If call orders or residual quantities from these are not retrieved within three months, we shall be entitled, after the unsuccessful setting of a reasonable deadline, of no longer than four weeks, to insist on immediate acceptance or to withdraw from the contract. In such cases, we shall also be entitled to assert damages if the buyer is responsible for the omitted call.

#### §13 Order cancellations

Order cancellations or amendments require our prior written consent.

In this case, we shall, in particular, charge the buyer for parts already manufactured and any specially created tools for the execution of an order as well as any other costs relating to items that have no further application.

#### §14 Retention of title

1. The goods remain our property until full payment of all receivables based on the business relationship with the buyer, including associated claims, compensation claims and the cashing of cheques and bills of exchange.
2. The retention of title shall remain effective even if individual claims are incorporated into a running account and the account balance has been settled and acknowledged.
3. If the goods subject to retention of title are processed by the buyer to a new movable item, the processing is deemed to be on our behalf, without us being obligated hereby. The new item becomes our property. In the case of processing, combining or mixing of the goods with other goods not belonging to us, we shall acquire co-ownership of the new item in relation to the value of the reserved goods' invoice value to the total value.
4. The buyer shall only be entitled to resell, to further process or to install the reserved goods by taking into account the following provisions and only under the condition that the claims under section 5 also actually pass to us:
5. The authority of the buyer, to sell, process or install the reserved goods in regular business transactions shall terminate upon our revocation as a result of a sustained deterioration in the assets of the buyer, at the latest with a stoppage of payments or with the request or opening of bankruptcy proceedings or extrajudicial insolvency proceedings in relation to his assets.
6.
  - a) The buyer hereby assigns the claim along with all ancillary rights arising from the resale of the reserved goods, including any balance of claims, to us.
  - b) If the goods were processed, combined or mingled and we have acquired co-ownership in such goods in the amount of the invoice values, we shall be entitled to part of the sale price in proportion to the value of our rights to the goods.
  - c) If the reserved goods are installed by the buyer in a plot of land, then the buyer assigns the resulting claims for compensation for the resale of the plot of land in the amount of the invoiced value of the reserved goods, including all ancillary rights, including those such as the granting of a debt-securing mortgage, with priority over all other debts.
  - d) If the buyer has sold the claim within the scope of genuine factoring, our claim shall become payable immediately and the buyer shall assign the accounts receivable from the factor to us and shall immediately forward his sales proceeds to us. We herewith accept such assignment
7. The buyer shall be authorised to collect the transferred receivables, if he fulfils his payment obligations. Such authorisation shall end upon revocation but at the latest in the event of default of payment by the buyer or in the event of any material deterioration in the financial condition of the buyer. In this case, we shall be authorised by the buyer to inform his customers of the assignment and to collect the receivables ourselves. The buyer undertakes, upon request, to provide us with a precise list of the payment claims to which we are entitled, with the names and addresses of the customers, the amount of the individual claims, the date of the invoice, etc. and to provide us with any information that may be required to collect the receivables and to entitle us to verify this information.

8. Should the total invoiced value of the collateral in our favour exceed the amount of the receivables including any additional claims (e.g. interest, costs) by more than 50 %, we shall be obligated, upon the request of the buyer or a third party disadvantaged by our excessive collateral, to release collateral according to our choice.
9. The pledging or assignment of the reserved goods or the assigned receivables is not permitted. We shall be notified immediately by phone and in writing, of any pledging and the name of the holder of the pledge.
10. If we take the delivery item back on account of the retention of title, the contract shall be rescinded. After taking back our delivery item, we shall be entitled to its sale, and the proceeds of the exploitation are to be set off against the obligations of the buyer, minus any appropriate sales.
11. The buyer shall hold the reserved goods for us free of charge. He shall be obliged, at his own expense, to insure the goods adequately at the original value against the usual risks such as fire, theft and flood. The buyer hereby assigns his claims for compensation against insurance companies or other persons liable for compensation arising out of damages of the type mentioned above which he is entitled to, up to the invoice value of the goods. We herewith accept such assignment.
12. Until we are fully released from contingent liabilities that we have entered into in the buyer's interest, all claims as well as rights resulting from retention of title to all the special forms set out in these Terms, shall remain valid.
13. The retention of title is limited in such a way that the title for the reserved goods passes to the buyer without further measures and the assigned receivables shall accrue to him, after all our claims, arising from the business relations, are paid in full.

#### § 15 Terms of payment

- a) Payment  
Our invoices are payable without deduction within 30 days after invoice receipt. Any discount deduction requires our prior written consent. Tool cost accounting is generally excluded from any discount deduction. In addition, our respective agreed terms of payment shall apply.
- b) Minimum invoice amount  
The minimum invoice amount is € 300.00 for delivery ex stock in Renningen. In the case of parts to be manufactured, the minimum invoice amount increases according to the type and extent of the parts per position. The exact amount can be provided upon request or shall be stated in our order confirmations. Minimum invoice amounts are subject to the applicable VAT and are payable immediately after receipt of the invoice without deduction.
- c) Default of payment  
If the buyer does not pay the invoice amount at the latest on the 15th day from receipt of the invoice, he shall be in default of payment. The value date on our account is decisive for timeliness. In the event of a default, the buyer shall be liable to pay a default interest in the amount of 10% points above the respective base interest rate. The assertion of further damages shall not be excluded hereby. If the buyer ceases to make payments, or if judicial or extra-judicial insolvency proceedings are initiated against his assets, we shall have the option to withdraw from the contract with respect to the part which has not yet been fulfilled.
- d) Right of set-off  
The buyer shall only be entitled to a right to withhold payments, or to offset them against counter claims, insofar as his counter claims are undisputed or have been determined by final judicial decision.
- e) Shipping  
Shipping and deliveries shall be freight collected and are at the risk of the buyer. Also in the event that freight-free delivery has been agreed, the risk is still with the buyer.

#### §16 Place of Performance / Jurisdiction

The place of performance for deliveries, payments and all other claims arising from the contract, shall be our registered office. If the buyer is a fully qualified merchant, a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is our registered office. Only the law of the Federal Republic of Germany shall apply to the contractual relations. Application of the United Nations Convention of 11.04.1980 concerning contracts involving international sales, shall be excluded.

General Conditions of Sale of  
Hutchinson Stop-Choc GmbH & Co. KG  
Local Court Stuttgart HRB 251135  
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