

## **Conditions for Sale and Delivery**

- 1. For the deliveries of HEIZ CNC-Technik ("We") the following General Conditions for Sale and Delivery are exclusively binding:*
- 2. Conditions for Purchasing and further conditions stated by the Customer are non-binding unless otherwise agreed in writing.*
- 3. Offers surrendered by us are without obligation. A contract is only concluded by written order confirmation or by execution of the contract.*
- 4. The order confirmation is binding for contents and volume of the order. In connection with the order confirmation, documents of supplier, such as illustrations, drawings, indications on weights, dimensions and performance data are to be deemed non-binding unless expressly stated as binding.*
- 5. Deviations from these general sales conditions, supplementary agreements and side letters are only binding when explicitly confirmed by us. The same applies for deferred amendments and supplements to already concluded contracts for delivery.*
- 6. With regards to the continuous technical further development and improvement of our products, we reserve the right to amend the statements made in our print-outs regarding design and execution, so long as the value of the offered products is not affected.*

### *II. Prices*

- 1. Valid prices for the delivery are the list prices at point of time of order confirmation.*
- 2. The prices are to be understood ex stocks Geldern, packing excluded.*
- 3. The transport packing will be charged at cost price. After effected delivery, the Customer sends back the packing at his expenses and we will care for the disposal. Should he refrain from doing so, the Customer is completely liable for the disposal in accordance with the regulations on packaging.*
- 4. Separately as a lump sum payable are:*
  - the value added tax at the prevailing legal rate*
  - the packing costs*
  - the postage.*

### *III. Delivery Time*

- 1. Delivery data transferred to the Customer are target values only and are not binding, unless otherwise agreed in writing.*
- 2. The delivery period starts with the date of the order confirmation made out by us. This term is complied with when the object of delivery is dispatched before end of time limit.*
- 3. The time for delivery prolongs by the time the Customer needs for sending complete data and documentation to us necessary for execution of the order.*
- 4. All agreed delivery times will not start prior to our receipt of the right and complete material in time by our sub-suppliers.*
- 5. Delivery periods shall be reasonably extended if circumstances such as labour disturbances, in particular strikes and lockouts, or any other unforeseen events beyond our control occur, to the extent that can be proven that these events have materially influenced*

*the manufacture or delivery of the goods. The same shall apply in case such circumstances affect our sub-contractors. We shall not be held liable for any delay, even if such circumstances occur during an already existing delay attributable to us. We shall promptly notify Customer about the onset of and the relief from such circumstances.*

*6. Partial deliveries are not allowed to be rejected by Customer.*

#### *IV. Delivery, despatch, passing of risk*

*1. We have the right for partial deliveries, unless otherwise explicitly stated differently. Partial deliveries are valid for payment duties, passing of risk and warranty duties as self-contained delivery.*

*2. Type of despatch, despatch type sequence and company being instructed to execute delivery will be determined by us, as long as Customer has not given explicit instructions.*

*3. The risk passes on to Customer as soon as the assignment with delivery goods leaves the works/ stocks of us. The same applies to despatch of own transport devices.*

#### *V. Replacement / Withdrawal*

*1. All shipments back to us have to be carriage paid. Any postages will not be reimbursed.*

*2. Replacements of delivery goods will generally be charged with a lump sum for depreciation of 10 % of the goods' value, presumed the delivered goods have already been in use of the Customer.*

*3. After having opened the original wrapping, the Customer acknowledges the intellectual property rights of us as well as the warranty conditions. Original wrappings are all shrink-wrappings.*

*4. In case of denied acceptance of ordered goods (returned goods), we charge all fees incurred for postages as well as a handling fee of 10% of the goods' value.*

#### *VI. Payment*

*1. The invoice will be written on the same day as the Customer places the order.*

*2. Payments will normally be effected by cash on delivery or advance payment or in cash on pick-up.*

*3. We reserve the right to assign claims.*

*4. Presumed we have granted an extension of payment, a default of acceptance for longer than 12 working days on the Customer's side, entitles us to charge interests of 3 % above the current discount rate. Additionally, we reserve the right to bring to bear the Customer a possibly damage resulting from this default of acceptance.*

*5. Bills of Exchange or cheques are only accepted after agreement and for settlement of transaction. Any banking fees, e.g. discount fees will be borne by the Customer. We refuse liability for submission in time.*

*6. In case of payment by instalments, the instalments have to be paid in due time, otherwise the outstanding amount will be due immediately. Irrespectively of different agreements, we are entitled to insist on immediate payment of all outstanding claims, should we get notice of a bill protest or note protest, a fail of payment in due time or other*

*actual hint for an important deterioration of the Customer's assets. Further more, we are entitled to insist on advance payment for all further goods having been ordered.*

*7. Summation with counterclaims which are not accepted by us and are not legally binding is excluded. This has been generally agreed for business transactions.*

## *VII. Retention of Title*

*1. The goods delivered shall remain our property until receipt of all payments due under the contract (including claims for e.g. charges for Bill of Exchange, financing, due interest payments, etc.). An acquisition of ownership by putting it into a manufacturing process in accordance with para. 950 BGB (German Civil Code) is excluded. A possible manufacturing process with or of our products has only to be executed with our explicit approval and without any obligation for us. The delivered goods being put into a manufacturing process are serving of our security in the amount of its value. Should the goods subject to reservation of title, work together with other objects in possession of the customer, we have title on co-ownership at the new product in relation of the value of the goods subject to reservation of title to the other connected objects at the point of time of connected production. The Customer is obliged to inform the owner of the other objects on our retention of title. For the new product the same applies as for the goods subject to reservation of title in the same meaning as these conditions.*

*2. In commercial business dealings, we reserve the right of retention of title on the delivered goods until complete payment of all deliveries of goods and other claims arising from the business relationship. The retention of title is terminated on completely balanced account for the goods delivered up to that point of time.*

*3. It is prohibited to the customer to use the delivered goods for distraint or transfer by way of security before having balanced all payments due in connection to them. The customer has to inform us immediately on distraints, confiscation of goods or other dangers of our property by third party and to refer copies of the respective documents (protocols on the distraints, etc.) to our hands. Costs arising from such occurrences have to be borne by Customer.*

*4. The Customer has the right to work on and with the delivered goods as well as to resell them within the normal business transaction.*

*5. In case the Customer resells the delivered goods before fulfilment of all his payment obligations, he herewith assigns his claims arising from the resell to us with the contract he makes out with his purchaser already. In case the claim arising from the resell is based on a current account with business partners between the Customer and his purchaser, the same assignment of security spans on the balance in our favour in the same amount. The Customer is allowed to collect his assigned book accounts, as long as we do not revoke this authorization. We have the right for revocation when our secured claims are endangered, particularly if the Customer does not fulfil his payment obligations in due time. The collection authorisation will expire immediately in case of suspension of payments and on getting notice of the opening of a file for bankruptcy or composition before bankruptcy upon the assets of the Customer. After direct debit authorization has been expired we have the right and the Customer is obliged to advise the assignment to the debtor. The Customer has to refrain from making use of incoming amounts but has to keep incoming amounts separately for us. On demand, the Customer has to inform us to whom he has sold the delivered goods and to give us all information and documents on the assigned book accounts.*

6. In case the value of our existing securities exceed the value of the secured claims by more than 25 %, we are obliged to release the exceeding securities on demand. We reserve the right to chose the securities to be released.

7. The Customer waives the prohibition of assignment agreed between him and his purchaser. The Customer is obliged to agree on a prohibition of transfer with third parties in which our goods are involved.

#### *VIII. Liabilities for other obligations and Duties*

1. We guarantee that the delivered goods are of the best available technology at the point of time of delivery and are free of any faults.
2. We assume no liability for damages resulting from inappropriate use, non-adherence to operating instructions or faulty and careless treatment. We give application technology advice according to our best knowledge based on our experience. However, all indications and information on applicability and use of our goods are without obligation and do not release the Customer from examining and checking on his own.
3. Obvious defects have to be indicated immediately, but 2 weeks after receipt of delivery at the latest. If not, all compensation claims resulting herefrom are excluded. In business transactions additionally para. 377 and 378 of the German Commercial Code (Handelsgesetzbuch, HGB) are valid.
4. The Customer has to send the blamed delivery goods within the original packing back to our premises in Geldern. Provided the notice of defects is legitimate and placed in time, we will chose to either repair the goods or replace them against faultless ones for fulfilment of our warranty obligations. In this case the forwarding expenses will be borne by us, of course. In case the repair or additional delivery should fail, the Customer is entitled to demand a reduced price or termination of the contract.
5. At all events, damage claims can only be realized if it can be proved that we have acted by intention and of gross negligence, even when repair or replacement delivery fails or if assured features are missing.

#### *IX. Other Liabilities*

1. In all other cases, not having been defined under these conditions for sale and delivery, any and all damage claims from the Customer's side are excluded, independent which legal basis they might have. This disclaimer of warranty is particularly valid in case of bad fulfilment and breach of pre-contractual and contractual side duties and is also valid for non-contractual liabilities, particularly for liabilities from forbidden acting and from product liability. This disclaimer of warranty stretches to our employees and auxiliary persons. This disclaimer of warranty is not valid in case of acting by intention, deliberate action and gross negligence or if assured features are missing.

#### *X. Order cancellation and compensations due to not executed orders*

1. We can withdraw from the contract, when we get notice of a suspension of payments, the opening of a file for bankruptcy or composition before bankruptcy, bill or note protests or other actual hints for important deterioration of the customer's assets.

2. In case we withdraw from the contract or the order cannot be executed due to reasons for which the customer is responsible, the customer has to pay a compensation for our expenses and the lost profit a lump sum of 15 % of the order value. We reserve the right to claim a higher compensation, in case we can prove larger expenses.

The lump sum compensation can be reduced by that amount which the customer can prove that lower expenses or damages have occurred.

#### *XI. Intellectual properties of the documents*

1. Supplier reserves the copyright and property right for drawings, sketches, specifications, samples, cost estimates and other documents. Third party are not allowed to get access to them without Supplier's explicit approval and have to be sent back to supplier including any and all copies immediately after demand by Supplier.

#### *XII. Industrial Property Rights*

1. Should software be a selectable unit component, the Customer acquires simple usage rights. The transferability of the usage rights as well as the making of a backup copy depends on the instructions of the sub-supplier in the individual case. Generally it is forbidden to make backup copies unless explicitly otherwise permitted. Further more, the customer has to respect any and all intellectual property rights on the goods. In case of reselling the goods, he has to transfer the usage right restrictions.

#### *XIII. Remark*

1. Customer in the sense of our conditions for Sale and Delivery is every person taking over our products, whether as purchaser or buyer.

#### *XIV. Place of performance, Place of jurisdiction, partial ineffectualness, applicable law*

1. The agreed place of performance for all contractual duties, including possibly warranty claims, is Geldern.

2. In business transactions with business men, being not tradesmen in accordance with para. 4 German Commercial Code (Handelsgesetzbuch, HGB), and with a legal person (of public law), the agreed place of jurisdiction for all legal disputes resulting from the contract including bill and note protests will be Geldern. Supplier is also entitled to file suit at Customer's principal place of business.

3. Should one of these Conditions of Sale be or become without effect, all other conditions stated herein will continue to be in force. Instead of this condition without effect, a condition being the nearest in the sense of it as to its economic purpose shall come into force.

4. In cross-border transactions German right is applicable. The United Nations Convention on Contracts for the International Sale of Goods shall not be applicable.