

# General terms and conditions of sale

Applicable in national and international business transactions with companies, legal persons under public law and special public funds.

## 1. General provisions

- 1.1 These General Terms and Conditions of Sale (hereinafter: "Sales Conditions") shall apply to the supply of fittings, parts of fittings, installations or other products of Hansa Armaturen GmbH (hereinafter: "HANSA") to the customer, even if they are not expressly referred to in subsequent contracts.
- 1.2 Terms and conditions of the customer that conflict with, supplement or deviate from these Sales Conditions shall not become part of the contract unless their application is expressly approved by HANSA in writing. These Sales Conditions shall apply even if HANSA makes a delivery to the customer without reservations whilst being aware of the customer's conflicting or deviating terms and conditions.
- 1.3 Agreements which supplement or deviate from these Sales Conditions and which are made between HANSA and the customer for the performance of a contract must be set out in writing in the contract. This shall also apply to the cancellation of this requirement of the written form.
- 1.4 Any rights beyond these Sales Conditions to which HANSA is entitled by law shall remain unaffected.

## 2. Formation of contract

- 2.1 All offers and cost estimates from HANSA shall be subject to change and non-binding unless they are expressly designated as binding offers.
- 2.2 Pictures, drawings, information about weight, measurement, performance, and consumption, and other descriptions of the goods that may be contained in the documentation which forms part of the offer shall be approximations only unless they are expressly promised to be binding, in writing or electronically. Such descriptions or information shall not constitute an agreement on, or guarantee of, an according quality of the goods. In the event that a binding agreement on the target quality of the goods is made with the customer, changes by HANSA shall continue to be permitted to the extent that such changes are made because of mandatory legal requirements and that they are not unreasonable for the customer. HANSA reserves the right to make changes to the design and form of the goods to the extent that such changes are insignificant and not unreasonable for the customer. In the event that changes are unreasonable, the customer shall have the right to rescind the contract. All further claims shall be excluded.
- 2.3 The quality of the goods that is owed shall be finally agreed in the order and the order confirmation.
- 2.4 Orders shall not become binding until they have been confirmed by HANSA by means of a written order confirmation. Order confirmations that are generated using automatic devices and, therefore, do not contain a name and signature shall be deemed written order confirmations. If HANSA does not respond to offers, orders, requests, or other declarations from the customer, this shall only be deemed approval if an express written agreement to this effect has been made between HANSA and the customer. To the extent that an order confirmation contains obvious errors, misspellings or calculation mistakes, it shall not be binding upon HANSA.

## 3. Delivery; delivery periods; default

- 3.1 Unless expressly otherwise agreed, delivery shall be "ex works" (EXW, as defined by Incoterms® 2010), 08393 Meerane, Germany. At the request and expense of the customer, the goods will be shipped to a different destination (hereinafter: "sale including shipment"); in this case, HANSA shall have the right to determine the manner of shipment. At the request and expense of the customer, HANSA shall take out a transport insurance policy and insure the goods against the risks specified by the customer.
- 3.2 The scope of the delivery shall be as set out in the written order confirmation from HANSA. Any changes to the scope of the delivery and to the delivery item itself which are requested by the customer must be confirmed by HANSA in writing to be valid.
- 3.3 HANSA shall have the right to make partial deliveries unless this is unreasonable for the customer.
- 3.4 Delivery periods must be agreed in writing. Delivery periods shall not be binding unless they have been expressly designated as binding.
- 3.5 The delivery period shall commence when HANSA dispatches the order confirmation, but not before all documents, permits and approvals that may have to be obtained by the customer have been provided in full, the agreed down-payment, if any, has been received, and the customer has timely and properly provided any further cooperation owed.
- 3.6 An agreed delivery period shall be deemed met if, by the time the delivery period expires, HANSA has made the goods available at the place of delivery or – in the event of a sale including shipment according to the second sentence of clause 3.1 above – has handed the goods over to the person in charge of carrying out the transport or the customer has announced that it will refuse acceptance. The delivery shall be conditional upon HANSA being timely and properly supplied by its own suppliers.

- 3.7 If the failure to comply with delivery periods is due to force majeure or other obstacles for which HANSA is not responsible, such as war, terrorist attacks, or import and export restrictions, including obstacles that affect any of HANSA's suppliers, the agreed delivery periods shall be extended for the duration of the existence of such obstacles. This shall also apply if HANSA and/or its suppliers are affected by industrial action.
- 3.8 If the customer has ordered the goods in a legally binding manner and the goods do not contain any defects, an exchange of the goods shall not be possible, as a general rule. If HANSA decides in exceptional cases to take the goods back from the customer as a gesture of goodwill, HANSA may charge a fixed handling fee in an amount equal to 20 % of the value of the goods.
- 3.9 A delay in delivery shall only entitle the customer to rescind the contract if HANSA is responsible for the delay.
- 3.10 If the customer and HANSA have entered into a fixed-term framework agreement regarding future deliveries and the customer fails to order the goods in a timely manner, HANSA may, upon expiry of a reasonable additional period of time set for performance, deliver the goods and issue an invoice, rescind the contract or – if the customer has acted wilfully or negligently – claim damages in lieu of performance.
- 3.11 In the event of return shipments at the customer's initiative for which HANSA must bear the costs, the choice of the carrier shall be agreed with HANSA before the return shipment is made. If the customer fails to comply with this obligation, HANSA will not bear the difference between the costs of the carrier chosen by HANSA and the costs of the carrier chosen by the customer.
- 3.12 For shipments to third parties, HANSA will charge a supplement of 10 % of the value of the goods, at minimum, however, the shipping costs actually incurred.
- 3.13 If the customer fails to inform HANSA in due time of the carrier, HANSA may, without prejudice to any other legal remedies, conclude the transport contract with a carrier on customary terms at the expense and risk of the customer.
- 3.14 The transport packaging and all other packaging in accordance with the German Packaging Ordinance will not be taken back by HANSA; an exception shall be made for standardised reusable packaging, such as Euro pallets and wire pallet containers. The customer shall be obliged to arrange at its own expense for the disposal of the packaging. In doing so, the customer must comply with the disposal requirements prescribed by law and ecologically (recycling loop).
- 3.15 To the extent that the goods were delivered to the customer on Euro pallets or wire pallet containers (load carriers), the customer shall be obliged to return the same number of load carriers of the same type and quality to HANSA at the place where the original delivery took place.
- 3.16 Without prejudice to the provisions of clause 7.1 below, the customer shall be obliged to examine the goods upon delivery for externally visible damage and report the damage, if any, to the transport company which carries out the delivery and ask the latter for an according confirmation in writing. If the customer fails to comply with this obligation, it shall be liable to compensate HANSA for any damage suffered as a result of such failure.
- 3.17 To the extent that deliveries of replacement parts and return shipments of repaired goods are not covered by liability for defects in quality, HANSA will charge reasonable lump-sum costs for shipping and packaging plus the remuneration for the goods or services provided by HANSA.

## 4. Transfer of risk; default of acceptance

- 4.1 The risk of accidental loss or destruction or accidental deterioration of the goods shall pass to the customer as soon as HANSA has made the goods available at the place of delivery mentioned in the first sentence of clause 3.1 above or – in the event of a sale including shipment, as defined in the second sentence of clause 3.1 above – as soon as the goods have been handed over to the person in charge of carrying out the transport. This shall also apply if partial deliveries are made or if, unlike stated in the second sentence of clause 3.1 above, HANSA has agreed to bear the transport costs in any particular case.
- 4.2 If the customer defaults on its obligation to accept the goods, HANSA may claim compensation for the damage suffered as a result of such default as follows: an amount equal to 0.5 % of the net price of the goods supplied per day of default, limited, however, to a maximum of 5 % of the net price of the goods supplied in total. The contracting parties may assert further claims for damages or prove that the amount of damage actually suffered was smaller. The risk of accidental loss or destruction or accidental deterioration of the goods shall pass to the customer at the time the customer starts to default on its obligation to accept the goods. The goods shall be deemed supplied – in particular, with regard to the warranty periods and the obligation to pay – when the customer starts to default on its obligation to accept the goods.
- 4.3 Without prejudice to the customer's claims for defects, if any, the customer shall be obliged to take delivery of the goods supplied even if they contain minor defects. The customer shall further be obliged to take delivery of the goods supplied if the goods made available exceed or fall short of the quantity ordered by up to 5 % or if the goods made available are delivered early, provided the delivery does not occur significantly ahead of schedule.

## 5. Prices

- 5.1 The agreed price shall be the price in euros that is stated in the order confirmation, plus value-added tax. The statutory value-added tax is not included in the price and shall be stated separately in the invoice at the statutory rate which applies on the date of issue of the invoice.
- 5.2 If, as an exception, the order confirmation does not contain any prices, the price list applicable at the time the respective delivery is made shall apply.
- 5.3 If the period between the order confirmation and the delivery exceeds four months and there is an increase in prices during this period of time, in particular, because of an increase in wages or in the cost of raw materials, a general increase in prices due to inflation, or similar circumstances, HANSA shall have the right to charge an appropriately increased price. This shall also apply if, upon submission of the offer or upon order confirmation by HANSA or upon HANSA entering into a framework agreement in which the prices are firmly agreed, the prices of the raw materials used for the goods concerned or other significant cost factors, such as energy, wage, transport or insurance costs, increase significantly (i.e. by at least 10 %); in this case, HANSA shall have the right to reasonably raise the prices to the extent that they are affected by this increase in costs. HANSA shall carry out such price increases taking into account the customer's legitimate interests, in particular with regard to any commitments made by the latter to continue to supply the goods at a particular price. Upon request, HANSA shall furnish the customer with evidence of the factors leading to the increase in prices.
- 5.4 Unless specifically otherwise agreed, all prices are "ex works" (EXW, as defined by Incoterms® 2010), excluding packaging. In the event of a sale including shipment, as defined in the second sentence of clause 3.1 above, the customer shall bear the transport costs and, where applicable, the cost of the transport insurance requested by the customer.
- 5.5 In deviation from Sec. 195 German Civil Code, HANSA's claims for payment of the purchase price shall become time-barred after five years.

## 6. Electronic delivery of the invoices by e-mail

- 6.1 Invoices shall be sent by HANSA by post in principle. The electronic delivery of the invoice by e-mail shall take place exclusively at the request and with the consent of the customer.
- 6.2 If the customer requests that the invoice be sent electronically by e-mail, the customer must ensure that the invoices sent by HANSA by e-mail can be delivered to the e-mail address provided to HANSA by the customer and that technical equipment such as filter programs and/or firewalls are adapted accordingly. Any automated electronic reply letters to HANSA after the invoice has been sent by e-mail (e.g. absence notes, etc.) shall not be considered and shall not prevent the invoice from being legally delivered.
- 6.3 The customer shall immediately notify HANSA in writing of any change in the e-mail address to which the invoice is to be sent. If the customer does not notify HANSA of a change in his e-mail address, the invoice sent to the last e-mail address notified to HANSA shall be deemed to have been delivered.
- 6.4 HANSA shall not be liable for damages resulting from an increased risk of electronic delivery of the invoice by e-mail compared to postal delivery. In particular, the customer bears the increased risk of unauthorized third parties accessing and modifying the contents of the invoice by sending the invoice electronically by e-mail.
- 6.5 The customer may revoke his acceptance of electronic invoicing by e-mail at any time. The revocation of the acceptance does not affect the legality of the sending by e-mail based on the acceptance up to the revocation. The revocation is to be addressed to: customer-service@hansa.com
- 6.6 HANSA reserves the right to change the electronic delivery of invoices by e-mail to postal invoicing for good reason.

## 7. Terms of payment

- 7.1 Unless otherwise agreed in writing, the purchase price plus the cost of packaging, freight and insurance, where applicable, shall be payable without any deduction and free of charge for HANSA within 30 days of the receipt of the invoice, by transfer to a bank account of HANSA the details of which have been stated in the invoice. The deduction of a discount for prompt payment must be agreed in writing.
- 7.2 Payments shall be made in the currency in which the price is stated in the invoice. If no currency is stated in the invoice, the price must generally be paid in EUROS.
- 7.3 A payment shall be deemed made at the point in time when HANSA is able to dispose of the amount. If HANSA accepts means of payment other than cash, payment shall again be deemed made when the amount owed has been credited unconditionally to the bank account of HANSA and/or when HANSA is able to dispose of such amount.
- 7.4 If the time allowed for payment is exceeded, HANSA may charge default interest at a rate of 9 percentage points above the base rate of the European Central Bank; the customer shall be free to prove that the interest loss actually suffered remains significantly below this amount. The preceding provisions shall not affect HANSA's right to claim compensation for any further damage suffered.
- 7.5 If the customer defaults on a payment, HANSA shall have the right to demand immediate payment of all claims arising from the business relationship which are due and not subject to any defences, even if such claims are not yet due.
- 7.6 The customer shall have no right to set its claims off against claims of HANSA or to exercise a right to retain with regard to its claims unless the customer's claims are undisputed or have been established in a judgment that cannot be appealed against. Fur-

thermore, the customer may only exercise a right to retain if the customer's claims and the claims of HANSA are based on the same contract.

- 7.7 HANSA shall have the right to make the performance of outstanding deliveries or services contingent upon the customer paying in advance, or upon the customer providing security, if circumstances become known after the conclusion of the contract which could significantly reduce the customer's creditworthiness and which jeopardise the payment of HANSA's outstanding claims under the relevant contract by the customer. This shall apply accordingly if the customer refuses to pay, or fails to pay, any outstanding claims of HANSA and undisputed objections against HANSA's claims or objections that have been established in a judgment which cannot be appealed against do not exist.

## 8. Warranty

- 8.1 The customer's rights arising from defects shall be contingent upon the customer performing its statutory obligations to inspect and give notice of defects (Sections 377 and 381 German Commercial Code), in particular, upon the customer inspecting all goods supplied without undue delay upon receipt and giving HANSA without undue delay written notice of any obvious defects and of defects that could be identified during such inspection. The customer must provide HANSA with written notice of any hidden defects without undue delay after such defects have been discovered. In order for such notice to be deemed given without undue delay within the meaning of the first sentence above, it must be given within 8 working days; this deadline is met if HANSA receives the notice before the expiry of the aforesaid period. If the customer fails to carry out a proper inspection and/or to give notice of defects, HANSA shall not be liable for the defect. When giving HANSA notice of defects, the customer must provide a written description of the defects.
- 8.2 If a notification of defects is unjustified, HANSA may demand to be compensated by the customer for the expenses incurred, unless the customer proves that the unjustified notification of defects was not due to wilful misconduct or negligence on the part of the customer.
- 8.3 If the goods contain defects, HANSA may remedy the defects or, at its option, deliver goods which are free from defects.
- 8.4 If the goods are not at the place of delivery, the customer shall bear all additional costs and expenses which HANSA incurs as a result of this fact when remedying defects unless the goods were relocated in accordance with their agreed use.
- 8.5 Rights arising from defects shall not exist
- in the event of an insignificant deviation from the agreed quality or an insignificant impairment of usability (including, without limitation, deviations in structure and colour from the sample or from catalogue illustrations and/or deviations from previous deliveries to the extent that such deviations are due to the nature of the materials used and are customary in trade);
  - in the event of natural wear and tear (typical wearing parts being, in particular, the products offered by HANSA as replacement parts; upon request, HANSA will provide the customer with a list of replacement parts);
  - in the event of defects resulting from improper handling (for example, other than as described in the operating manual), improper storage or maintenance, or excessive strain or use after the risk has passed;
  - in the event of defects resulting from force majeure, from extraordinary external impacts that are not intended according to the contract, or from the goods being used in a manner which does not correspond to their contractually intended or customary use.
- 8.6 Furthermore, rights arising from defects in quality shall not exist
- if the goods supplied are altered by a third party, or through the installation of parts from another manufacturer, unless the alteration did not cause the defect or the third party was expressly instructed by HANSA;
  - if the customer had the defect removed by technically inexperienced third parties.
- 8.7 HANSA does not accept liability for defects which arise as a result of the customer insisting on a manner of processing or a selection of materials that deviates from HANSA's specifications.
- 8.8 Warranty claims may be asserted by the customer only. The customer shall have no right to assign its warranty claims against HANSA unless HANSA has expressly approved such assignment in writing.
- 8.9 The provisions of this clause 8 shall apply accordingly to defects in title which do not consist in an infringement of third-party intellectual property rights.

## 9. Other liability

- 9.1 HANSA's contractual liability for damages as part of its warranty obligations shall, in any case, be conditional upon fault (wilful misconduct or negligence), even if no-fault liability is provided for by law (in particular, by the United Nations Convention on Contracts for the International Sale of Goods (CISG) within the context of international business transactions). This shall not affect the mandatory statutory liability for product defects (in particular, under the German Product Liability Act).
- 9.2 HANSA shall be liable without limitation – on whatever legal grounds – in the event of a breach of guarantee or death, bodily injury or damage to health. The same shall apply to wilful misconduct and gross negligence, mandatory statutory liability for product defects (in particular, under the German Product Liability Act), and liability if defects were concealed with fraudulent intent.

- 9.3 In cases of slight negligence, HANSA shall – subject to clause 9.2 above – only be liable if material obligations are violated which result from the nature of the contract and are of particular importance for achieving the purpose of the contract. If such obligations are violated, and also in the event of default or if performance is impossible, HANSA's liability shall be limited to the damage that can typically be expected with this contract.
- 9.4 In the event of failure to meet a delivery date, HANSA's liability for damage suffered by the customer as a result of the delay shall – subject to clause 9.2 above – be limited to a maximum amount equal to 5 % of the agreed net price. The contracting parties may assert further claims for damages or prove that the amount of damage actually suffered was smaller.

#### 10. Limitation

The limitation period for the customer's claims for defects shall be 12 months and shall commence upon delivery of the goods. The limitation period shall further commence upon the customer defaulting on its obligation to accept the goods. The above limitation period shall also apply to tort claims which are based on a defect of the goods. The limitation period shall not start anew as a result of a repair or replacement delivery. In the cases referred to in clause 9.2 above, the statutory limitation rules shall apply instead.

#### 11. Retention of title

- 11.1 The goods supplied shall remain HANSA's property until they have been paid for in full.
- 11.2 Furthermore, the goods supplied shall remain HANSA's property until all claims arising from the business relationship between the customer and HANSA have been paid in full.
- 11.3 The customer shall be obliged to handle the goods which are subject to this retention-of-title clause with due care for as long as title is retained. In particular, the customer shall be obliged to sufficiently insure the goods at the customer's own expense at their replacement value against damage by fire, water and theft. The customer hereby assigns to HANSA all claims for compensation arising from such insurance. HANSA hereby accepts this assignment. If assigning such claims is not allowed, the customer hereby irrevocably instructs the insurer to make payments, if any, only to HANSA. This shall not affect any further claims of HANSA. Upon request, the customer shall provide HANSA with evidence of the conclusion of the insurance contract.
- 11.4 If the goods which are subject to this retention-of-title clause are combined with other items that do not belong to HANSA such that they form a single item, HANSA shall acquire proportionate co-ownership of this single item, according to the ratio of the value (final amount invoiced, including value-added tax) of the goods which are subject to this retention-of-title clause and the value of the other items at the time they are combined. In the event that the goods which are subject to this retention-of-title clause are combined with other items in such a manner that the customer's item is to be considered the principal item, the customer hereby transfers to HANSA proportionate co-ownership of this item. HANSA accepts this transfer. The provisions of this clause 11.4 shall apply accordingly if the goods which are subject to this retention-of-title clause are mixed or processed with other items.
- 11.5 The customer shall have the right, subject to revocation, to sell the goods which are subject to this retention-of-title clause in the ordinary course of business. The customer shall have no right to pledge the goods which are subject to this retention-of-title clause, to transfer them by way of security, or to make any other dispositions which jeopardise the ownership of HANSA. In the event of attachments or other encroachments by third parties, the customer must notify HANSA without undue delay in writing and provide all the information needed, advise the third party of HANSA's property rights, and assist with any measures taken by HANSA to protect the goods which are subject to this retention-of-title clause.
- 11.6 The customer hereby assigns to HANSA its claims arising from the resale of the goods which are subject to this retention-of-title clause, along with all ancillary rights, in an amount equal to the amount invoiced, including value-added tax. HANSA hereby accepts this assignment. If the goods which are subject to this retention-of-title clause are sold with other goods not supplied by HANSA, the claim arising from resale shall be assigned proportionately, according to the ratio of the value of the goods which are subject to this retention-of-title clause (final amount invoiced, including value-added tax) and the value of the other goods sold. If assigning such claims is not allowed, the customer hereby irrevocably instructs the third-party debtor to make payments, if any, only to HANSA.
- 11.7 The customer shall be authorised, subject to revocation, to collect the claims which have been assigned to HANSA in its own name as a trustee acting on behalf of HANSA. This shall not affect HANSA's right to collect such claims itself. However, HANSA shall not assert such claims itself or revoke the authority to collect claims as long as the customer properly performs its payment obligations. If, however, the customer breaches the contract – in particular, if the customer defaults on a payment – the customer must disclose the assigned claims and the respective debtors to HANSA, inform the respective debtors of the assignment, and provide HANSA with all the records and all the information needed by HANSA to assert the claims.

- 11.8 HANSA may revoke the customer's right to resell the goods and the authority to collect claims if the customer fails to properly perform its payment obligations to HANSA, defaults on one or more payments or stops payment, or if a petition is filed to institute insolvency proceedings against the customer's assets.
- 11.9 At the request of the customer, HANSA shall be obliged to release the security provided to the extent that the realisable value of such security exceeds HANSA's claims arising from its business relationship with the customer by more than 10 %, upon deduction of the mark-downs customary in the banking business. HANSA may choose which security interests it wishes to release.
- 11.10 In the event that goods are supplied to destinations with other legal systems where the retention-of-title provisions set out in this clause 11 are not legally valid, the customer hereby grants HANSA an equivalent security interest. If the creation of such a security interest requires further measures, the customer shall do whatever is necessary to grant HANSA such security interest without undue delay. The customer shall assist with all measures that are required for, and conducive to, the validity and enforceability of such security interests.

#### 12. Rescission/cancellation of the contract

- 12.1 If the customer breaches the contract, in particular, if the customer defaults on its payment obligations, HANSA shall – without prejudice to any other contractual or statutory rights – have the right to rescind the contract after a reasonable additional period of time set for performance has expired.
- 12.2 After notice of rescission of the contract has been given, the customer must grant HANSA or HANSA's agents without undue delay access to the goods which are subject to the retention-of-title clause and surrender these goods. For the purposes of the settlement of HANSA's due claims against the customer, HANSA may sell the goods which are subject to the retention-of-title clause otherwise after a timely announcement to this effect. Upon deduction of reasonable selling costs, the proceeds from sale shall be credited against the customer's liabilities.
- 12.3 The provisions of this clause 12 shall not operate to limit any statutory rights or claims.

#### 13. Confidentiality

- 13.1 The customer shall be obliged to treat all information about HANSA that becomes available to the customer and is designated as confidential or can be identified as a trade or business secret due to other circumstances as confidential for an unlimited period of time, and the customer may not record, disclose or exploit any such information.
- 13.2 The customer shall enter into adequate contractual agreements with the employees and agents working for it to ensure that they, too, refrain for an unlimited period of time from any exploitation, disclosure or unauthorised recording of such trade and business secrets for their own purposes.
- 13.3 Drawings, models, patterns, samples or similar items may only be used for the purpose of performing the contract and must not be made available to, or otherwise accessible by, unauthorised third parties. Such items may only be reproduced where this is necessary for operational reasons, within the limits defined by copyright law.

#### 14. Duty to cooperate

The parties mutually undertake to take all reasonable measures which are necessary to achieve the purpose of the contract and to refrain from whatever would conflict with achieving and maintaining the purpose of the contract.

#### 15. Governing law; place of jurisdiction

- 15.1 The legal relations between the customer and HANSA shall be governed by the laws of the Federal Republic of Germany.
- 15.2 If the United Nations Convention on Contracts for the International Sale of Goods (CISG) applies in international business transactions, i.e. in transactions with customers outside the Federal Republic of Germany, any matters that are not dealt with in the Convention or cannot be decided in accordance with the basic principles of the Convention shall be decided in accordance with the laws of the Federal Republic of Germany. This shall not apply to the provisions regarding recourse against suppliers pursuant to Sections 478, 479 German Civil Code, which do not apply in international business transactions.
- 15.3 The exclusive place of jurisdiction for all claims arising from the business relationship shall be HANSA's registered office. HANSA may additionally sue the customer at the customer's registered office or at any other permissible place of jurisdiction.

#### 16. Miscellaneous

- 16.1 Any transfer or assignment of rights and obligations of the customer to third parties shall require the written consent of HANSA.
- 16.2 The place of performance for all obligations that are to be performed by the customer and by HANSA shall be HANSA's registered office.