

Terms and Conditions of Sale and Delivery

I. Recognition of the Terms and Conditions of Sale and Delivery

1. All orders accepted by HJS Emission Technology GmbH & Co. KG (hereinafter referred to as HJS) shall be executed in accordance with these Terms and Conditions of Sale and Delivery (hereinafter referred to as Terms and Conditions). These Terms and Conditions shall also apply to future deliveries. By placing an order or accepting delivery, the Purchaser shall be deemed to recognise these Terms and Conditions. General Terms and Conditions of the Purchaser are hereby expressly rejected.
2. Should one or several of the provisions be or become invalid, this shall not affect the validity of the remaining provisions.

II. Offers and Formation of Contract

1. All contracts with our clients shall take effect only upon issue of our acknowledgement of order in text form (i.e including e-mail or standard form confirmation). In case an acknowledgement of order is not issued, the contract shall become effective upon our notification of readiness for dispatch, issuance of the invoice or delivery of the goods, whichever event occurs first. Until this time, our offers are non-binding.
2. Subsidiary agreements and contract amendments shall be subject to our confirmation in text form.

III. Prices and Payment

1. Our prices are quoted in Euro (€), ex-works, excluding VAT, packing and other expenses.
2. Unless otherwise agreed, our invoices are due for payment no later than 30 days after their date of issue, payable net without any deduction in cash or by wire transfer to the account designated by the Supplier. Should a cash discount have been agreed for early payment, such cash discount shall not be granted if the payment of previous invoices remain outstanding. If due invoices are not paid, all further deliveries shall be due for payment with immediate effect.
3. In the event of default on payment, the Supplier shall charge default interest of eight (8) percentage points above the base rate charged by the European Central Bank (ECB) if the Purchaser is a business man. If the Purchaser is no business man, default interest of five (5) percentage points above the base rate shall apply. Further claims are reserved.
4. The Purchaser shall not withhold payment or offset payment on the grounds of counterclaims unless such counterclaims are recognised by HJS or by final judgement of a court of law.

IV. Delivery

1. The goods delivered shall be forwarded at the risk of the Purchaser, regardless of the place of dispatch and whoever bears the shipping costs.
2. Unless otherwise individually agreed, our stated delivery times are non-binding. Release dates and delivery schedules shall require our written confirmation.
3. The delivery period shall commence upon receipt of the acknowledgement of order by the Purchaser. Deadlines can be adhered to only if the Purchaser provides all requisite documents, licences and permits in good time and adheres to the agreed payment schedules and other obligations. The delivery period shall be deemed to have been complied with, if the items of delivery have left the works or have been notified as ready for shipment by this date.

Terms and Conditions of Sale and Delivery

4. Cases of force majeure or other unforeseeable circumstances – such as strikes, lockouts, impeded supply of raw materials, consumables and supplies, intervention by official authorities, stoppages at HJS and our subcontractors – which are beyond our responsibility shall release HJS from our obligation to deliver the part of the order HJS is unable to fulfil as long as such impeding circumstances persist.
- 4.a Despite the current conditions during the ongoing coronavirus pandemic, we are, as things stand, still able to deliver our products. However, in view of the scarcely foreseeable further developments and impact of the coronavirus pandemic, our order confirmations will be issued expressly subject to a case of force majeure. In cases of force majeure, we shall be released from our delivery and performance obligations for the duration and to the extent of the impact of the case of force majeure without any liability or liability to recourse, contractually or under law. Force majeure shall, in particular, refer to any disruption of operations, plant closure as required by the authorities or disruption in the supply chain or transport route due to and in connection with the coronavirus pandemic and for which we are not responsible. We will of course notify you of the occurrence and cessation of such a case of force majeure as and when we become aware of them, and we will make every effort to remedy the respective disruption and to limit its impact to the greatest possible extent.
5. HJS is liable in accordance with statutory provisions, if the delay of delivery is due to our gross negligence or intentional acts. Except in case of intentional breach of contract, our liability is limited to foreseeable, typical damages.
6. Moreover, HJS is liable in accordance with statutory provisions, if the contract is a fixed date agreement pursuant to Section 268 para. 2 no. 4 German Civil Code (BGB) or Section 376 German Commercial Code (HGB). HJS is also liable in accordance with statutory provisions, if the delivery delay occurs due to our fault, if the Purchaser can allege that it has no interest in the further performance of the agreement.
7. Furthermore, HJS is liable in accordance with statutory provisions, if the delivery delay occurs due to our fault and rests upon a breach of a material contractual obligation. In such case, HJS's liability is limited to foreseeable, typical damages.
8. In any other case of delivery delay, the liability of HJS is limited to 0,5 per cent (0,5%) of the order value for each complete week of delay, and in total to five per cent (5%) of the order value..
9. The rescission by the Purchaser is excluded if HJS can prove that the delivery delay is not due to its fault.
10. In case of orders consisting of several deliveries independent from each other, non-performance, defective or delayed performance of one delivery shall not have any effect on other deliveries. Partial deliveries are permissible.
11. Returns shall require prior consent from HJS in each individual case.

V. Intellectual Property Rights and Tools

1. HJS retains its title rights and copyrights to cost estimates, drafts and other documents; such documents shall be disclosed or made available to third parties only in agreement with HJS. Drawings and other documents pertaining to offers shall, upon request, be returned to the Supplier.
2. In the event of HJS having supplied items in compliance with drawings, models, designs and other documents provided by the Purchaser, the Purchaser shall guarantee that the intellectual property rights of third parties are not infringed..
3. In the event of our goods being delivered abroad, including in processed form, the Purchaser shall indemnify HJS against all claims by third parties arising from the violation of industrial property rights.

Terms and Conditions of Sale and Delivery

4. Tools used in the manufacture of the delivery item and that are made by HJS shall remain the property of HJS even if the Purchaser is charged pro rata costs for these tools. The retention period for such tools shall be at our discretion and will depend on our economic requirements.

VI. Reservation of Title

1. All goods delivered shall remain the property of HJS pending settlement of all claims held by HJS against the Purchaser. The Purchaser may sell, process, mix or combine the reserved goods only in the proper and ordinary course of its business.
2. In the event of the Purchaser reselling reserved goods, the Purchaser shall herewith assign as security any future receivables from the sale of the goods, including all ancillary rights, to the Supplier with there being any requirement for a further declaration. Should the reserved goods be resold together with other goods without a unit price having been agreed for the reserved goods, the Purchaser shall assign to the Supplier, with priority over the other claims, that part of the total price corresponding to the value of the reserved goods invoiced by the Supplier. HJS hereby accepts such assignment.
3. Any processing of reserve goods owned by HJS shall be performed by the Purchaser on behalf of HJS as manufacturer within the meaning of Article 950 of the German Civil Code (BGB) without any liabilities arising for the latter as a result. If reserved goods are processed, mixed or combined with other goods not owned by HJS, HJS shall be entitled to a co-ownership share in the resultant product in relation to the invoice value of the goods delivered by us in proportion to the invoice value of the remaining goods, in compliance with Sections 947 and 948 of the German Civil Code (BGB). If the Purchaser acquires sole ownership of the new goods, the contracting parties hereby agree that the Purchaser shall grant HJS co-ownership of the new goods in proportion to the value of the invoice of the goods supplied by HJS and shall hold them in safe custody for us free of charge.
4. If goods to which HJS is entitled to co-ownership following processing, combining or mixing are sold, the advance assignment shall encompass a share of the claim receivable amounting to the invoice value of our processed, combined or mixed goods.
5. HJS shall be entitled to take possession of the reserved goods if the Purchaser is in arrears in the fulfilment of the claims made against them arising from the business relationship. The demand for the surrender or the taking possession of the reserved goods shall not be deemed to imply withdrawal from the contract.
6. The Purchaser shall be authorised to collect assigned receivables. HJS reserves the right to revoke this authorisation, if the Purchaser is in default with its payment obligations vis-à-vis HJS or, if the Purchaser is in cessation of payments or, if it is filed for insolvency proceedings on the Purchaser's assets. Upon our request, the Purchaser shall provide us within three business days with the information and the relevant documents about the assigned claims required for collection and notify the debtors about such assignment.
7. The Purchaser may not pledge the reserved goods or assign same by way of security. The Purchaser shall notify us forthwith in the event of attachments and seizure or other third party dispositions.
8. The reservation of title shall remain in effect if the Purchaser issues a cheque made out to the invoice amount and at the same time receives a bill of exchange for the purchase price made out and endorsed by HJS (cheque-bill procedure).
9. Should the value of all the existing securities exceed the value of the secured receivables by more than twenty per cent (20%), HJS shall be obliged at the request of the Purchaser to release collateral security at our discretion.

Terms and Conditions of Sale and Delivery

VII. Warranty and Liability

1. Where HJS delivers goods on the basis of a sample, HJS only guarantees the quality and dimensional characteristics of the sample which has been tested by the Purchaser for a specific purpose. Insignificant deviations from samples or from previous information do not justify warranty claims to the extent that they do not have a significant negative effect on the contractually agreed functionality.
2. All deliveries and services of HJS shall be subject to the statutory duty to inspect and give notice of defects as well as the statutory limitation periods.
3. In case of defect of a delivered good, the Purchaser may claim supplementary performance at the Purchaser's discretion either by the way of rectification of the defect or by the way of delivery of a new good. The cost of the supplementary performance – including transportation, travel, labour and material cost – shall be borne by HJS, except to the extent these are increased, because the delivered good has been brought to a place other than the place of performance. HJS may refuse the way of supplementary performance chosen by the Purchaser if it causes inappropriate costs.
4. If the supplementary performance fails, the Purchaser may choose withdrawal from the agreement or reduction of the purchase price.
5. HJS is liable in accordance with the statutory provisions insofar as the Purchaser's claim is based upon our gross negligence or intentional acts – including the gross negligence or intention of our representatives and vicarious agents. Except in case of intentional breach of contract, the obligation of HJS to compensate damages shall be limited to foreseeable, typical damages. The following cases in particular do not constitute a defect for which the Supplier is responsible:
 - Use of the delivery item for a purpose other than that stipulated in the contract or intended within the frame of sampling
 - Overstressing, for instance, due to disturbed operating conditions such as overheating, running dry, contamination and the like
 - Use of inappropriate supplies, such as sealing media, lubricants, frost-protection and anti-corrosion additives and similar
 - Improper handling, for example, through incorrect or excessively long storage, unprofessional installation, etc.
 - Unsuitability of the place of use, for example, faulty mating face or screwed connections
 - Normal wear and tear for the product or operation.
6. HJS is liable in accordance with the statutory provisions in case of a culpable breach of a material contractual obligation. In such case, the obligation of HJS to compensate damages shall be limited to foreseeable, typical damages.
7. The liability of HJS for negligent or intentional cause of death, physical injury and health impairment remains unaffected as well as HJS's liability in accordance with the German Law on Product Liability.
8. Except to the extent provided in the above paragraphs, the liability of HJS shall be excluded.
9. Motorsport components are high-performance products for specific applications and without any warranty. Owing to the incalculable and incomprehensible extreme loads, no warranty is given on any products used in motorsport.

Terms and Conditions of Sale and Delivery

VIII. Place of Performance, Court of Jurisdiction and Applicable Law

1. The place of performance for deliveries and services of HJS is the place from where they are delivered or performed. The place of performance for all payments (including by means of bill of exchange or cheque) is Menden.
2. If the Purchaser is a registered trader, corporation under public law or institution under public law, the court of jurisdiction for all rights and duties of both contracting parties ensuing from commercial dealings of all kinds is Menden, unless statutory law provides for another exclusive venue. HJS shall, however, at its own discretion, be entitled to bring action at the courts with jurisdiction over the registered office of the Purchaser.
3. This agreement and any matters ancillary to it shall be governed by and interpreted in accordance with the substantive laws of the Federal Republic of Germany with the exception of the Conventions relating to a Uniform Law on the International Sale of Goods.

Stand March 2020 · Page 5 of 5