



GENERAL TERMS AND CONDITIONS OF PURCHASE (COP)

1. General

- 1.1 Our general terms and conditions of purchase shall apply exclusively; we do not acknowledge other general terms of business that are contrary to or deviate from our terms of purchase unless we have expressly consented to the applicability of said terms in writing. Our terms of purchase shall apply even if we accept deliveries of the contracting party without any reservations in the knowledge of the terms of the contracting party that are contrary to or deviate from our terms and conditions of purchase.
- 1.2 Our written consent to the terms and conditions of the contracting partner, without excluding the applicability of our terms and conditions of purchase through this written consent, only confirms the fact that we, without prejudice to the applicability of our terms and conditions of purchase, solely took note of the contracting party's terms. If in such a case the terms of the contracting party should also include an effective protective clause, the terms of the contracting party and our terms and conditions of purchase are to be compared with each other, however, the law shall apply in case of conflicting terms (principle of congruence).
- 1.3 These terms and conditions of purchase apply to all services rendered for us and/or requested by us; in the sense of these terms and conditions of purchase „contracting party“ means suppliers, manufacturers, sellers and subcontractors of a work performance, service or other performance.
- 1.4 All agreements concluded between us and the contracting party should be furnished in writing.

2. Quotation / Quotation Documents

- 2.1 The contracting party agrees to accept our order within a period of two weeks.
- 2.2 Figures, drawings, computations, models, matrixes, tools (cf. also 13.3), templates, samples, data or similar whether physically available or electronically stored (article) remain our property; exploitation rights are only granted to the contracting party to the scope deemed necessary for the performance of the contract. Articles must not be made available to third parties without our prior written consent and must be returned to us unrequested after completing the order. Articles must be kept confidential to third parties.
Even if articles have been developed by the contracting partner through our active involvement (trials etc.) or have been manufactured by the contracting party based on our information, such articles may only be used for the purpose of our order and, upon request, must be sent to us immediately and free of charge to Rostock.



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The right of retention regarding articles can not be exercised.

- 2.3 If the contracting party has developed manufacturing processes and/or special methods in terms of the order/s released from our side, we obtain, independently from the protection of such processes and methods as patent, design patent and utility patent, the right of use unrestricted in space even beyond the period of collaboration. The contracting party has implemented such development on our behalf; the contractual payment from our side will satisfy such rights of the contracting party.
- 2.4 All articles specified under 2.1 to 2.3 must be kept in operational condition, carefully stored and reasonably insured against loss and damage by the contracting party. As far as we consented that articles can be made available to third parties, the contracting party must impose the obligation set out in this clause similarly to the third party.
- 2.5 As far as the contracting party has developed and/ or produced components for our delivery programme, it must not supply such components to third parties without our prior consent.

3. Principle of Due Care by the Contracting Party

The contracting party must exercise due commercial care.

4. Transfer of Risk / Place of Performance

The risk of performance and remuneration of the contracting party will be transferred to us in case of deliveries with assembly obligation including installation and assembly and in case of other services at the time of acceptance at the place of installation/performance, in case of exclusive deliveries at the time of acceptance of the compliant deliveries at the reception point (place of performance) specified by us.

5. Delivery Note, Invoice and Payment

- 5.1 A delivery note, which contains our order number and article numbers as well as shipment date, kind of packaging, goods denomination, quantity and weight of the shipment and reception address (plant or place of unloading), must be attached on top of each shipment.
- 5.2 The invoice must include order number, order item, goods denomination, quantity, unit price, number and date of the delivery note. Value added tax, if



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applicable, must be stated separately. Each invoice must refer to one order transaction only.

- 5.3 Payment is made with our preferred means of payment. The start of an agreed payment term is determined by the performance date or, if applicable, by an agreed performance deadline. However, in any case, the payment terms do not start before the invoice has been received.

6. Freight and Packaging

The contracting party must select the most economical shipping method and packaging. The packaging must be selected according to the properties of the goods, the means of transport and the transport route to ensure that the packaging complies with all shipment requirements.

7. Performance Deadlines

- 7.1 The delivery deadline specified in the order and/or stipulated by us in the contract is binding. In any case, the compliance with the delivery date is determined by rendering the service / receiving the goods at our location or at the agreed place of performance.

- 7.2 If delivery deadlines are not complied with, legal provisions will apply, however, we reserve the right to partial withdrawal.

- 7.3 In case of delayed delivery, we are entitled to charge a lump-sum of 1% of the order value for each accomplished week for the incurred damage caused by the delay, however, not more than 10%; we reserve the right for further legal claims (withdrawal and damage compensation in lieu of performance). The contracting party is entitled to prove that the delay did not cause any damage or did cause a significantly lower damage.

- 7.4 Partial performance or successive deliveries are, as far as not otherwise agreed, not permitted. If partial performance or successive deliveries have been agreed, we may, as far as reasonable, put off performance deadlines and performance volumes.

The contracting party must immediately notify delayed deliveries and furnish proof of their cause. The contracting party must, at its own expense, make all efforts to fulfil the contract by the fixed deadline.

The agreed deadlines for performances of the contracting party may be put off by us for no longer than six months if the assumed demand is delayed due to strikes or similar disruptions of operations. However, this does not constitute a claim in favour of the contracting party. If the delay in demand is caused by a

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case of force majeure and will last more than six months, each party may withdraw from the contract in full or in part; whereby legal provisions remain unaffected. As far as reasonable in individual cases, we accept early deliveries however the agreed payment term is still determined by the agreed later performance deadline and/or by the subsequent invoicing (5.3).

8. Prices

- 8.1 The price stated in the order is binding. The price includes „carriage free“ delivery and packaging as well as reasonable shipment insurance.
- 8.2 The statutory value added tax is included in the price.
- 8.3 We can only process invoices if they were submitted in compliance with the requirements of the order, particularly including order number. The supplier is responsible for all consequences arising from non-compliance with this obligation unless it is able to demonstrate that such act arose from circumstances beyond its sphere of influence.
- 8.4 If the contracting party reduces its prices, the option for a price reduction will be agreed for non-rendered services.
- 8.5 If not otherwise agreed, we pay within 14 days of delivery and receipt of invoice, including 2% discount, or within 30 days of receipt.

9. Inspection for Defects – Liability for Defects

- 9.1 We are obligated to inspect the goods within a reasonable period of time for any visible quality and quantity deviations. A complaint is deemed to be submitted in due time if it is received by the contracting party within a period of five workdays after receipt of the goods or, in case of hidden defects, after these have been detected. Quality assurance agreements made between us and the contracting party prevail over the regulation made in sentence 1.
- 9.2 We are fully entitled to any statutory warranty claims; however, we have the right to demand from the contracting party either to remedy the defect or to replace the delivery by a new article. We expressly reserve the right to damage compensation, in particular to damage compensation in lieu of performance.
- 9.3 We are entitled to remedy defects on our own and at supplier's expense, if the supplier is in default.



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- 9.4. For each delivery which we have found defective after delivery to us, we will charge a lump sum of 5% of the net order value for shipment, warehouse and administrative costs. We reserve the right to claim further compensation; the contracting party may demonstrate that shipment, warehouse or administrative costs have not incurred or have incurred at lower costs.
- 9.4 The statutory period of limitation is 36 months, starting with the passage of risk, as far as the mandatory provisions of §§ 478, 479 BGB (German Civil Code) or extended statutory periods of limitation will not apply.
- 9.5 If the contracting party fails, after stipulating a reasonable deadline, to fulfil the request to remedy the defect immediately, we may, without prejudice to further claims, remedy the defect on our own or advise a third party to remedy the defect at the expense of the contracting party. The same applies to urgent cases where we are able to remedy the effect faster than the contracting party. Urgent cases include severe bodily harm, operational safety and security and/or goods of considerable value (50% of the net order value). As far as not otherwise agreed, warranty is regulated according to statutory provisions.
- 9.6 The contracting party must maintain product liability insurance with a minimum coverage of 5 billion euro per damage case and furnish proof of it, if we may request so.

10. Performance

- 10.1 The best suitable, flawless and new materials must be used for performance purposes; they must comply with applicable legal /official regulations, must have the agreed or, if not previously agreed, standard commercial characteristics and must comply with the general state-of-the-art technology in the Federal Republic of Germany when fulfilling the contract, even if this state-of-the-art technology has not been taken into consideration for the technical standards and set of rules which are significant for the performance of the contracting party at the place of delivery. Upon request, the contracting party must provide evidence of the information mentioned above; it does not apply if the provision of such evidence is deemed unreasonable for the contracting party.
- 10.2 The contracting party must perform a goods issue inspection and product conformity inspection at its own expense. In addition, the contracting party must also take into consideration potential quality regulations specifically stated in the order. Our internal quality inspection and goods inward inspection does not release the contracting party from its contractual obligations.



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- 10.3 We are entitled to request supplementary performance (rework or replacement); however, the economically more favourable option should be given priority, as far as a deficiency can also be remedied without complaints, and deadlines or requirements of an end customer do not provide an obstacle. As far as we request supplementary performance from the contracting party, such work must be performed without delay. If it later turns out that the deficiency did not exist, the contracting party may claim compensation.
- 10.4 The warranty period for reworked or replaced components is 12 months from date the warranty obligation becomes effective, however will not finish before the warranty period of the initial performance has expired.
- 10.5 In case of a warranty, the contracting party must also bear all related inspection costs, all costs incurred from de-installation and installation, labour and material costs, and shipment and other costs related to the shipment of deficient components from and return of flawless components to the initial place of delivery or, depending on the agreement to be made, to a different site of application.
- 10.6 The contracting party agrees to remedy all defects incurred during the warranty period, if we request so, before the warranty period has expired. The limitation period is suspended by the written complaint submitted by us until the defect was remedied. However, the suspension ends three months after we received the written statement from the contracting party that the defect was remedied or no defect existed.
- 10.7 Cases of potential defects of title including breach of property rights of third parties lie in the responsibility of the contracting party, who must indemnify us from potential third party claims. This does not apply if property rights were infringed by our drawings, samples or other specifications.

11. Changes

If the contracting party wishes to change its performance in terms of a previous order of a similar kind or in terms of a description on the existing order, this is only permitted with our prior written consent. As far as the change affects logistical issues of an end customer, the contracting party must, if consent was given to the change, also comply with such issues. The contracting party is responsible to ensure that its changed performance is also non-objectionable with regard to our intended purpose in case of potential previous orders and with regard to the intended purpose stated in the order by the contracting party. Therefore, the contracting party can be made liable if its changed performance will not adequately comply with the performance rendered by us or by third parties.



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12. Assignment of Receivables

The assignment of receivables from the contractual relationship requires our written consent and is furthermore excluded.

13. Reservation of Proprietary Rights

- 13.1 If we order components, we reserve the proprietary rights on them. The contracting party must keep such components separately from the property of the contracting party and mark them as our property. Processing or alterations by the contracting party are performed on our behalf. If our items which are subject to reservation of proprietary rights will be processed with items which are not our property, we will acquire co-ownership of the new item in the ratio of the value of our item (purchase price plus VAT) to the other processed items at the time of processing.
- 13.2 If the items delivered by us will be inseparably blended with other items which are not our property, we will acquire co-ownership in the new item in the ratio of the value of the items which are subject to reservation of proprietary rights (purchase price plus VAT) to the other blended items at the time of blending. If the blending is performed in a way that the item of the contracting party should be deemed as major item, the parties agree that the contracting party will transfer to us prorated co-ownership. The contracting party will manage on our behalf the sole ownership or co-ownership.
- 13.3 We reserve the property right on tools; furthermore the contracting party agrees to use the tools exclusively to produce the goods ordered by us. The contracting party agrees to insure at its own costs all tools which are our property at the original value against damages related to fire, water and theft. At the same time, the contracting party will already now assign to us all compensation claims from such insurance and we hereby accept this assignment. The contracting party agrees to perform at its own expense and in due time all necessary maintenance and inspection work as well as all repairs and servicing. The contracting party must notify any malfunctions without delay; if it culpably neglects to do so, any claims for compensation of damages remain unaffected.
- 13.4 As far as the security interests to which we are entitled to pursuant to 13.1 and/or 13.2 exceed the purchase price of all our unpaid goods which are subject to proprietary rights by more than 10%, we agree, upon request of the suppliers, to release the security interests at our discretion.
- 13.5 The contracting party agrees to keep strictly confidential all figures, drawings, computations and other documents and information submitted to it. They may



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only be made available to third parties if we expressly consented to it. The confidentiality obligation remains effective even after the contract has been fulfilled; it terminates when and as far as the manufacturing know-how contained in the figures, drawings, computations and other documents has become general knowledge.

- 13.6 The contracting party may reserve the property rights on its supplied goods until the supply has been paid in full. However, we are entitled to continue to using, processing and forwarding the supplies according to their intended purpose. An advance assignment of our receivables against our customers in the amount of the claim of the contracting party to us is generally excluded, however, may be concluded in a written agreement for individual cases.

14. Right of Withdrawal / Cancellation

- 14.1 Without prejudice to any further claims, we are entitled to withdraw from the contract in full or in part if the contracting party filed for insolvency, a third party filed for insolvency, a third party filed for insolvency over the assets of the contracting party, and the insolvency filing of a third party was not withdrawn within one month or was refused by the court.

- 14.2 The following applies for the cancellation right pursuant to § 649 BGB (German Civil Code) or for any withdrawal or cancellation right agreed in the order letter:

We may, at any time, cancel the contract in part or in full. For items which were already completed, the agreed price must be paid proportionally. For processed components, the prime costs will be reimbursed. In addition, all other necessary costs incurred until the cancellation was filed will be reimbursed.

Upon request, the ownership of paid components must be transferred to our property.

The contracting party must provide evidence of the facts on which such claims are based.

15. Stockpiling of Components / Supply Readiness

The contracting partner must ensure the stockpiling of components/ supply readiness for the regular lifecycle of the supplied goods, however, at least for a period of 10 years of fulfilment. Even if such a stockpiling obligation does no longer exist for performances rendered to us, the subcontractor agrees to notify us in due time of any intended termination of its performance to ensure that commodities can still be supplied to us for our internal stockpiling of components.



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16. Declaration of Origin

As far as it is possible to obtain tariff preferences through declaration of origin, the contracting party must provide such declaration properly and completely in the prescribed wording, whereby the exact goods denomination must be provided by using our own goods denomination.

17. Data Protection

Please note that we store personal data which are related to the business relation with our contracting party and we transfer such data to enterprises affiliated to or collaborating with us.

18. Jurisdiction and Applicable Law

- 18.1 The contractual relations between the parties shall be governed and construed by the laws of the Federal Republic of Germany with the exclusion of UN Purchase Law (CISG) and of the referral regulations under German International Private Law. Place of jurisdiction is Rostock.
- 18.2 Should the contracting party fail to comply with the agreement on jurisdiction the contracting party will be imposed with a contractual penalty amounting to 10% of the net order value. Place of jurisdiction for contractual penalty proceedings is Rostock.

The general terms and conditions of purchase presented here apply for the following companies:

1. HKS GmbH - industrial manufacturer of compensators and hoses
Schonenfahrerstraße 1
Germany-18057 Rostock
2. HKS ssb GmbH - sandblasting, cutting, coating
Schonenfahrerstraße 1
Germany-18057 Rostock