

# General Terms and Conditions of Business of the Company Hinz GmbH - Machine Components for Stress-Relief Annealing

## I. Scope of Application

1. Our General Terms and Conditions of Business shall apply to all - also future - legal relations between the parties concluding the contract. Deviating agreements shall only be valid, if we have acknowledged them in writing.
2. Contrary or conflicting General Terms and Conditions of Business of the contractual partner - hereinafter referred to as "Buyer" - shall not place us under any obligation, even if we do not expressly object to them.
3. Our Terms and Conditions of Business apply only in relation to entrepreneurs within the meaning of section 310, subsection 1 of the German Civil Code [BGB].
4. If a stipulation in our General Terms and Conditions of Business is or becomes ineffective, this shall not affect the effectiveness of any of the other stipulations.

## II. Offer/Offer Documents

1. Our offers shall be subject to change without notice.
2. An order or delivery note containing the following particulars must be enclosed with all workpieces handed over for thermal treatment:
  - a) designation, number of units, net weight, value of the parts and type of packaging;
  - b) the desired thermal treatment, in particular
    - annealing temperature,
    - holding time.

Any particular requirements regarding dimensional stability or surface condition shall be noted in the delivery documents.

The Client shall draw particular attention to welded or soldered workpieces and to workpieces containing hollow bodies.

We shall, within the bounds of our knowledge, check the particulars provided by the Client in respect of their content and completeness. If we have good reason to doubt that thermal treatment will be successful, we shall inform the Client.

## III. Prices/Payment Terms

1. Except where otherwise ensues from the acknowledgement of the order, our prices shall apply "ex works", excluding dispatch costs, customs duty, packaging and the like. Value-added tax shall be added at the respective valid rate.
2. We reserve the right to change our prices commensurately with any cost reductions or cost increases occurring after the conclusion of the contract, particularly by reason of collective agreements, changes in the price of materials or currency fluctuations. These shall be proven to the Client on request.
3. Deduction of a cash discount shall require special written agreement.

Except where otherwise ensues from the acknowledgement of the order, the price shall be due and payable net (without any deduction) within 8 days of the invoice date.

The statutory provisions concerning default in payment shall apply.

4. We shall accept bills of exchange or cheques on account of performance according to special agreement, but not in lieu of performance. Our receivable shall only be satisfied on the day when we have the equivalent value at our disposal without having to reckon with charge-back claims. Collecting, discounting and bill of exchange charges, as well as interest shall always be chargeable to the Client and be due and payable immediately.
5. The Client shall only be entitled to set off with a receivable which is uncontested or has been determined with legal finality. The Client shall only be entitled to exercise a right of retention to the extent that its counterclaim is based on the same contractual relationship.

## IV. Delivery Period

1. The delivery period shall commence once the parties to the contract have effected clarification of the order and the Client has fulfilled all prerequisites. For procedural reasons, the delivery period shall be deemed agreed upon only on an approximate basis. Upon occurrence of unforeseeable impediments which we have been unable to avert despite having exercised the standard of diligence reasonable under the circumstances of the case, the delivery period shall - within a period of default in delivery - be appropriately extended. Unforeseeable impediments are defined as any initially undetectable multiple treatments, severe operational disruptions arising at our own business establishment through no fault of our own, for example due to strike, lockout, accidents, transportation difficulties, shortage of operating materials or energy supply difficulties or due to operational disruptions at the business establishment of our suppliers. We shall be required to furnish proof thereof.
2. If it is foreseeable to us that we shall be unable to comply with the delivery period, we shall inform the Client thereof without undue delay, communicate the reasons for this to the Client and state a new possible date for delivery.

## V. Passage of Risk

1. Except where otherwise agreed upon, the item to be thermally treated shall be delivered by the Client at its expense and risk and be collected by the Client following completion. The risk shall pass to the Client at the time the item is handed over to the railway undertaking, forwarder or carrier or at the time of commencement of storage, but no later than at the time when the item leaves the works or warehouse, even if we have agreed to deliver by means of our own vehicle fleet.

## VI. Defect in Quality

1. The desired thermal treatment shall, following placement of the order, be carried out as a service on the basis of the particulars under no. II. 2, with due diligence and by suitable means.

2. Owing to, in particular, possible differences in the hardenability of the material used, hidden faults, unfavourable moulding or changes possibly made in the course of the preceding work sequence, we shall not provide any warranty for the success of the thermal treatment, e.g. in respect of freedom from warping or cracks or in respect of surface hardness, hardness penetration, through-hardening, electroplateability or the like.
3. If the thermal treatment is unsuccessful, without this being imputable to us, for example because the particulars demanded under no. II. 2 have been provided incorrectly by the Client, because we were unaware of hidden faults in the workpiece prior to execution of thermal treatment and could not have been aware thereof, or because successful thermal treatment has become impossible due to features of the material used, the moulding or the condition of the workpieces delivered, without us having been aware thereof or having been able to be aware thereof, the treatment fee shall nevertheless be paid. Any essential follow-up treatments shall be invoiced separately, subject to the prerequisites stated.
4. Defects shall be communicated to us in writing without undue delay after the passage of risk. Hidden faults shall be complained of in writing without undue delay after their discovery, but no later than within 12 months of the passage of risk. This time limit shall also apply in respect of limitation of claims based on defects in quality, except where the law mandatorily prescribes a longer limitation period, particularly for defects in a building or in workpieces which are designed to be incorporated into a building and have caused such a building to be defective.
5. In the case of every complaint, we must be given the opportunity to undertake an examination and carry out follow-up treatment. If we fail to meet our duty to carry out follow-up treatment or fail to do so in conformity with the contract within a reasonable period, the Client shall be entitled, following unsuccessful expiration of a reasonable time limit set in writing, to reduce the treatment fee, rescind the contract or carry out necessary follow-up treatment itself or through a third party at our expense.
6. In respect of damage to the item to be thermally treated and in respect of any other defect-related damage or losses caused by us, we shall only be liable for reasonably foreseeable damage or losses typical of the contract. Responsibility for proving a defect shall be incumbent upon the Client. The warranty periods and warranty limitations shall also apply to any follow-up treatment. If workpieces complained of have been reworked or processed without our written consent, the warranty duty shall become extinguished. No defect-related claims may be asserted in respect of process-induced shrinkage arising to a reasonable extent customary in this branch of industry during the process of thermally treating mass-produced articles or small parts. If we carry out straightening works at the Client's request, we shall assume no warranty for any breakage ensuing therefrom.

## VII. Liability

1. With regard to the thermal treatment to be carried out, the Client shall bear the responsibility for having effected manufacture of the workpieces in accordance with the technical rules, for the accuracy and completeness of the essential particulars provided in accordance with no. II. 2 and for a thermal treatment instruction tailored to the subsequent intended purpose.
2. Except where mutual written agreements have been made, we shall not be liable for damage or losses arising from a treatment proposed by us and approved by the Client.
3. We assume that the Client shall, for its part, undertake the examinations essential for fulfilment of the duty to maintain safety. Claims of an indirect nature, above all those ensuing from damage to items which are not identical to the workpiece, shall not be recognised by us.
4. The above limitations of liability shall not apply in cases of intent, gross negligence on the part of our statutory representatives or managerial employees or culpable breach of material contractual duties. In cases of culpable breach of material contractual duties, we shall be liable - except in cases of intent or gross negligence on the part of our statutory representatives or managerial employees - only for reasonably foreseeable damage or losses typical of the contract.
5. Furthermore, the limitation of liability shall not apply in cases where we are liable under the Product Liability Act [Produkthaftungsgesetz] for personal injury or property damage to privately used items in the case of faults in the products delivered. Nor shall it apply in cases of injury to life, body or health or in cases of absence of features which have been promised or in cases of absence of a property which has been guaranteed, if and in so far as the specific purpose of the promise or guarantee was to protect the contractual partner against damage or losses not arising on the thermally treated item itself.
6. In so far as our liability is excluded or limited, this shall also apply in respect of the personal liability of our white-collar workers, blue-collar workers, employees, statutory representatives and vicarious assistants. The statutory rules relating to burden of proof shall remain unaffected by this.

## VIII. Place of Performance and Place of Jurisdiction

1. The place of performance for both parties' obligations arising from all legal relations is 71254 Ditzingen-Schöckingen.
2. The legal relationship between the Buyer and us shall be governed by the law of the Federal Republic of Germany. The UN Sales Law (CISG) is expressly excluded.
3. The place of jurisdiction in the case of all disputes ensuing from the contractual relationship is Ditzingen-Schöckingen. We shall also be entitled to bring an action at the Client's principal domicile.

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