

# General Terms of Supply and Payment of the Company

## HAMMEL Recyclingtechnik GmbH, Bad Salzungen

### 1. General

- (1.) All our tenders and agreements are based on the following general terms and conditions of trade. They will be regarded as acknowledged when the order is given or at the latest by the acceptance of the delivery.
- (2.) Deviating conditions of the customer will only be binding if we declare our agreement to them expressly and in writing.
- (3.) Oral agreements will not become effective until we have confirmed them in writing.
- (4.) These general terms and conditions of trade will also apply to all future business with the purchaser.

### 2. Tenders, Samples and Descriptions

- (1.) Our tenders are always provisional and only commit us to accepting orders.
- (2.) Supplies of tests and samples will only be valid as approximate and will not be binding. They are to be sent back to us freight paid within a month of the despatch date or to be paid for.
- (3.) Descriptions of our machines, their performance and their despatch and drawings and plans only contain approximate information. Descriptions, drawings and plans will remain our property and may not be duplicated, made available to third parties or used for other purposes than giving an order to us without our written agreement. The above-mentioned documents must be returned to us upon request.
- (4.) The customer has to guarantee that the manufacturing drawings presented by him do not violate the patent rights of third parties. We are not obliged to check on behalf of the customer whether the submission of tenders based upon the manufacturing drawings he submitted would violate the patent rights of third parties if they were to be realized. Nevertheless, should a liability occur on our side, the customer must reimburse our losses in cases of claim of recourse.

### 3. Confirmation of Orders

- (1.) Orders will not be binding to us until they have been confirmed in writing.
- (2.) We shall be entitled to pass on rises in costs occurring after the order has been confirmed, if the customer does not make the necessary communication for the implementation of the order.

### 4. Supply

- (1.) We shall observe the delivery times given as far as possible; possible delayed deliveries or services will not oblige us to give compensation or a contractual penalty and will not justify any other commitments for our part. The customer will be entitled to withdraw from agreements if we have exceeded the delivery date by more than two months and the customer has given us a reasonable additional period of a month in writing.
- (2.) The delivery period shall begin with the dispatch of the confirmation of order, however not before the customer has submitted any documentation, authorizations or releases which may be required, or before receipt of an agreed down payment.
- (3.) The delivery period shall have been met if, by the time of its expiry, the customer has been informed of readiness for dispatch or the object of the delivery has left the works.
- (4.) The delivery period shall be extended in the case of actions within the scope of labour disputes, in particular strikes and lockouts, and in the case of unforeseen difficulties which lie outside our power, e.g. breakdown, delays in the delivery of essential materials, or force majeure. The same shall apply if these circumstances occur at our suppliers or carriers. The delivery period shall be extended by a further period corresponding to the duration of such actions and difficulties. The above-mentioned circumstances shall also not be our responsibility when they occur during an already existent delay. In significant cases, we shall inform the customer of the beginning and end of such difficulties as soon as possible.
- (5.) Partial deliveries shall be permitted within the delivery periods stated by us, in as far as they do not cause disadvantages for their use.

### 5. Transfer of risk / Despatch

- (1.) The risk turns to the customer, as soon as the goods are handed over to the person implementing the transport or as soon as the goods leave our factory for dispatching. If the goods are ready for dispatch and dispatching is retarded without our fault, then the risk turns to the customer as soon as the goods are ready for delivery.
- (2.) We shall determine the type and means of despatch according to our best assessment. If despatch is delayed for any reason, we shall be able to store the goods ordered on our premises or with a third party to be determined by us at the cost and risk of the customer. We shall only be responsible for the selection of the third party.
- (3.) Carriage and packaging expenditure shall be invoiced separately. The packaging becomes the property of the customer and will be invoiced by us at our cost price, in as far as nothing else has been agreed in writing.
- (4.) Our consignments and any returns will travel at the risk of the customer, even if they are transported and installed by our employees.
- (5.) The delivery shall be made from any warehouse in the sense of section 1 at the risk of the customer.
- (6.) Transport insurance will only be taken out at the instruction of and at the cost of the customer.

### 6. Cancellation charges

- (1.) Should the customer withdraw from the awarded order without good reason, we shall be entitled to demand ten per cent of the repurchase price for the costs arising from processing the order and lost profit, notwithstanding the possibility of asserting a claim for higher actual damage. The customer retains the right of proving a lesser loss.

### 7. Prices – Terms of Payment

- (1.) In as far as nothing else has been agreed, our prices are stated in euros. All our prices are "ex works", excluding packaging which is invoiced separately.
- (2.) Our prices are net prices; value added tax will be shown separately in the invoice at the legally applicable rate on the date of submission of invoice.
- (3.) Our invoices are to be paid as follows without any deductions: For **machines** 30 % when the order is confirmed, 60 % at delivery or readiness to despatch, the rest within 30 days after the date of installation or 100% of the purchase price at delivery, net without deductions. For **spare parts and customer services**: The total price without discount within 14 days from the date of the invoice. In as far as nothing else has been agreed, the net price shall be due within 14 days of the date of invoice. If the customer do not pay on the due date, we are absolutely authorized to demand per month or part thereof 1 % of the outstanding payments. If we are in a position to prove a higher damage caused by default, we shall be entitled to assert this against the customer.
- (4.) Payments in form of cheques or bills of exchange are not excepted. Whether the consignments of a cheque nor a bill of exchange will effect a debt-exemption or a debt-deferment. The admissibility to take legal actions for compensation is excluded.
- (5.) Our representatives and employees will be entitled to the receipt of payments of special letters of collection.
- (6.) Circumstances that place the creditworthiness of the customer in doubt in our estimation will entitle us to the careful assertion of an invoice still outstanding without consideration of their dates of payment. Apart from this, we shall be entitled to demand advance payment or the deposit of security according to our choice, because of due claims from agreements based on former conditions, and to refuse fulfilment for our part until advance payment or a deposit of security.
- (7.) Price changes shall be permitted if more than four months lie between conclusion of contract and agreed date of delivery. Should wages, material costs or market purchase prices increase between that time and completion of the delivery, we shall be entitled to increase the price reasonably in accordance with the increases in cost. The customer shall only be entitled to withdraw if the price increase substantially exceeds the general rise in the cost of living between the times of the order and the delivery. If the customer is a business person, a legal entity under public law or a separate asset under public law, then price changes shall be permitted according to the foregoing ruling if more than six weeks lie between conclusion of contract and the agreed date of delivery.
- (8.) The deduction of a settlement discount shall require a specific written agreement.
- (9.) The customer shall only have an offsetting right if his counter claims have been legally recognized or have been accepted by us. The customer shall have no right of retention on account of disputed counter claims.

### 8. Reservation of Proprietary Right

- (1.) We reserve the ownership of our machines and machine parts until the complete payment of all deliveries that have already taken place and will be taking place in the future and other services. In the case of a running account, the reserved proprietary right will be regarded as a security of the balance.
- (2.) The customer shall be obliged to treat the delivered goods with care. In particular, he shall be obliged to insure them adequately for their reinstatement value at his own cost against damage by fire, water or theft. The customer must perform the necessary maintenance and inspection work at his own expense and at the proper times.
- (3.) The customer may not dispose of goods subject to reservation of ownership without our agreement. Should the customer sell on the delivered goods with our agreement, then he shall with that pass on to his buyer the claims arising therefrom together with all the subsidiary rights for securing our claims up to the value of the reserved goods. This transfer will also relate to claims against insurance companies. The same shall apply to claims of the customer against the party causing the damage if the goods subject to reservation of ownership are damaged or destroyed.
- (4.) The adaptation of our goods for us and their use will take place without binding us. In the case of use with other goods that do not belong to us by the customer, we shall become co-owners of the new object, at the proportion of the value of the reserved goods to the value of the other goods used at the time of use to be precise.
- (5.) If the value of our protection of our claims rises by more than 20%, we shall release excess protection.
- (6.) The customer must inform us immediately of distraint of property or other interventions by third parties so that we can file a lawsuit in accordance with paragraph 771 ZPO (Zivilprozessordnung = code of civil procedure). Should the third party not be in a position to reimburse our in and out of court costs for such a lawsuit, then the customer shall be liable for the extent of the resulting loss.
- (7.) Should third parties attempt to obtain possession of the reserved goods, the customer must inform them that this is our property. Should the processing / mixing be such that the object of the customer is regarded as the main object, then it shall be taken as agreed that the customer shall look after the joint ownership for us.
- (8.) We shall be entitled to take back the reserved goods if the customer acts contrary to the terms of the contract, particularly in the case of failure to pay on the due date. Taking back or distraining the reserved goods shall not imply withdrawal from the contract on our part, in as far as the consumer law is applicable.

### 9. Taking Back the Goods

- (1.) If our claims are not fulfilled or are not fulfilled within the time limits named in sub-section 7, par. (1), we shall also be entitled to take back the goods supplied under reserved proprietary right, apart from the assertion of other rights to which we shall be entitled, without this being regarded as an exercise of the right to withdraw from the agreement. We shall be entitled to the same right if we become aware of circumstances that no longer allow an allocation of credit to be made in our opinion.

- (2.) If we take goods back, 30% of the order price will be remunerated to us.

### 10. Warranty

- (1.) All statements, such as, for example, construction values, dimensions, weights, diagrams, descriptions, calculations, assembly diagrams and drawings in pattern books and other documentation do not provide any assurance for the presence of a characteristic.
- (2.) The customer must advise us without delay of any defects. Should the customer fail to provide within one week a written advice of defects which could have been found by a proper inspection of the good, then he shall thereby lose his rights under warranty. The one week period shall begin with the day of delivery of the good. Should the good, in an exceptional case, not be delivered, then the period shall begin on the day of the transfer of the good. The broader obligations under paragraphs 377,378 HGB (Handelsgesetzbuch = Commercial Law) shall remain unaffected.
- (3.) The customer shall guarantee the dimensions stated by him. The customer shall guarantee that the drawings, patterns, illustrations and other documentation he provides us with do not violate the rights of third parties.
- (4.) In as far as the good has a defect which is our responsibility, then we shall be entitled to rectify the defect or provide a replacement delivery at our choice. Should the rectification of the defect or replacement delivery fail, then the customer shall be entitled to demand rescission of sale (cancellation of contract) or abatement (appropriate reduction of the purchase price) at his choice. If the customer requires warranty locally, transport costs, all travel expenses and accommodation cost will be charged to the customer.
- (5.) Natural wear and tear shall be excluded from the warranty in every case.
- (6.) Our guarantee has the pre-condition that the agreed payment conditions have been fulfilled punctually and the other obligations of the customer have been fulfilled. In particular, the implementation of inspections (every 250 hours of operation) by our specialist personnel, according to the order of the customer, will be a pre-condition for receiving the guarantee.
- (7.) After delivery of a machine, we guarantee correct material and appropriate installation for a duration of a maximum of 18 months or 2000 operation hours within an one-shift system, depending on which comes first. The same is valid for spare parts as well as factory performance. For spare parts as well as for work performances applies a warranty of 12 months or 1000 operation hours, depending on which comes first. If the installation or the delivery is delayed for reasons for which we are not responsible, the warranty period will expire 18 month after the despatch date ex works at the latest. The supply of spare parts and the carrying out of repairs without charge is included in the framework of the warranty. Travel, accommodation and despatch costs of fees and taxes associated with customs processing are not included, in so far there has been no other agreement.
- (8.) We shall not be liable for any deficiencies at the sale of used machines or machine parts.
- (9.) If we choose, the guarantee will pass to the replacement of a faulty part -substituted parts will become our property – or to making good. We reserve the right to make several attempts to make good. The customer will undertake to send defective parts back to us on request.
- (10.) In so far as guarantee work is carried out by third parties with our written agreement, we are to be informed immediately, within 8 days of the settlement date of the work, whether the third party has not complied with its obligations or whether the customer has an intention to complain about its work. Claims against us will be excluded after this time limit has expired.
- (11.) No liability will be accepted for supplied parts that are subject to premature wear and tear as a consequence of their material character or the way in which they are used, or for damage as a consequence of usual wear, straining, erroneous or negligent treatment, unsuitable means of operation, defective construction, or as a consequence of the influence of temperature, the weather, chemical or electrical influences or as a consequence of other influences of nature. Interventions by unauthorized third parties or accidents for which people themselves are to blame, neglect of servicing or maintenance, accountability during operation or other improper interventions will not be covered by our guarantee obligation.

### 11. Claims

- (1.) Should the customer enforce claims for compensation, then liability shall be restricted to intent and gross negligence. Except in cases of wilful breach of contract, we shall only be liable for foreseeable, typically occurring damage. The same limitation of liability shall apply in case of culpable and significant breach of contractual obligations on our part. This limitation of liability shall not begin in as far as damage to the life, body or health of the customer is caused by us.
- (2.) Apart from that, liability for damages shall be excluded. In particular, we shall not be liable for damage that has not occurred to the object of the delivery itself.
- (3.) Claims to compensation because of the consequences of defects, even in the wake of installation or making good, are excluded, even to the extent that they are attributable to the blame of agents of vicarious responsibility.

### 12. Closing Terms

- (1.) In the case of all disputes arising from the contractual relationship, the lawsuit shall be filed in the court of competent jurisdiction for our headquarters if the customer is a full business person, a legal entity under public law or a separate asset under public law. We shall also be entitled to file suit at the headquarters of the customer.
- (2.) German law shall apply exclusively, with the exclusion of laws concerning the international purchase of movable property, even if the customer has his company headquarters in a foreign country.
- (3.) The transfer of rights and obligations of the customer arising from the contract concluded with us shall require our written agreement in order to be effective.
- (4.) Should a term be or become invalid, then the validity of the other terms shall remain unaffected.