

General Terms and Conditions of HAMMEL Rental & Financial Services GmbH

1. General

- (1) All tenders and agreements of HAMMEL Rental & Financial Services GmbH (hereinafter: HAMMEL) are based exclusively on the following general terms and conditions (GTC). They are recognized as unconditional by placing an order, concluding a reservation agreement, but at the latest by accepting the delivery.
- (2) Deviating conditions from the customer are only binding if HAMMEL expressly agrees to them in writing, otherwise they will not become an integral part of the contract, even if HAMMEL carries out the delivery of the goods with knowledge of differing or conflicting conditions.
- (3) Verbal agreements will not become effective until HAMMEL has confirmed them in writing.
- (4) HAMMEL assumes the agreement to screen, filter and classify electronic communication. Electronic communication classified as spam, (potential) malware or faulty transmission (which may compromise the integrity of the communication), will not be read and rejected, even without feedback from the sender. It is the responsibility of the sender to obtain confirmation of the correct receipt, if necessary. Furthermore, e-mails larger than 10 MB may also be rejected. References to Dropbox are treated as potential malware. Executable files as well as files containing dynamic content can also be rejected. Documents in PDF-A format are preferred. HAMMEL accepts tax-relevant documents (invoices and credit notes) only via the email address rechnung@hammel.de in PDF format.

2. Tenders, Samples and Descriptions

- (1) The HAMMEL tenders are always provisional and do not make HAMMEL obliged to accept 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 HAMMEL, freight paid within a month of the despatch date or paid for.
- (3) Descriptions of HAMMEL machines, their performance and their transport as well as drawings and plans only contain approximate information that justify no assured characteristics. Descriptions, drawings and plans will remain HAMMEL property and may not be duplicated, made available to third parties or used for purposes other than order placement, without the written agreement of HAMMEL. The above-mentioned documents must be destroyed upon request.
- (4) The customer assumes responsibility for the dimensions specified by him. The customer has to guarantee that the manufacturing drawings presented by him do not violate the patent rights of third parties. HAMMEL is 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 the HAMMEL side, the customer must reimburse HAMMEL losses in cases of claim of recourse.

3. Order Confirmation

- (1) Orders will not be binding to HAMMEL until they have been confirmed by HAMMEL in writing or with the receipt of the agreed down payment.
- (2) If the customer withdraws from the order, HAMMEL can claim a higher actual damage without prejudice to the possibility
 - 10% of the order value before the start of construction
 - 30% of the order value after the start of construction
 - 100% of the order value after completion
 for the costs incurred by the processing of the order and lost profit, unless otherwise agreed. The customer retains the right to provide evidence of minor damage. Advance payments and balances received are taken into account and expire in favor of HAMMEL.

4. Delivery

- (1) The delivery is the timely and proper fulfillment of all commitments ahead of the customer. The plea of an unfulfilled contract remains reserved.
- (2) HAMMEL shall observe the delivery times given as far as possible; possible delayed deliveries or services will not obligate HAMMEL to give compensation or a contractual penalty and will not justify any other commitments on HAMMEL part. The customer will be entitled to withdraw from an agreement if HAMMEL has exceeded the delivery deadline by more than two months and the customer has given HAMMEL a reasonable extension of one month in writing.
- (3) The delivery period shall be set with the entry of the agreed down payment, however not before the customer has submitted any documentation, authorizations or releases which may be required.
- (4) 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.
- (5) The delivery period is to 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 the HAMMEL power, e.g. breakdown, delays in the delivery of essential materials, pandemics or force majeure. The same shall apply if these circumstances occur at HAMMEL suppliers or shippers. 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 HAMMEL responsibility when they occur during an already existing delay. In significant cases, HAMMEL shall inform the customer of the beginning and end of such difficulties as soon as possible.
- (6) Partial deliveries shall be permitted within the delivery periods stated by HAMMEL, in as far as they do not cause disadvantages for their use.
- (7) In default of acceptance or other culpable violation of cooperation obligations by the customer, HAMMEL shall be entitled to compensation for the resulting damage, including any additional expenses. Further claims are reserved.

5. Transfer of risk / Transport

- (1) The risk of accidental loss or deterioration of the goods is transferred to the customer as soon as the goods are ready for collection. In principle, "ex works" shall apply in accordance with Incoterms 2010, unless otherwise expressly agreed upon in writing within the order confirmation. If the goods are ready for shipment and the shipment / collection is delayed through no fault of HAMMEL, the risk shall pass to the purchaser upon receipt of the notification of readiness for shipment.
- (2) The method of dispatch and the means of dispatch are determined by HAMMEL at its best discretion. If shipping is delayed for any reason, HAMMEL can store the ordered goods with itself or with a third party to be determined by HAMMEL at the expense and risk of the customer. HAMMEL is only responsible for the selection of the third party.
- (3) Postage and packaging expenditure shall be invoiced separately. The packaging becomes the property of the customer and will be invoiced by HAMMEL at its cost price, as far as nothing else has been agreed in writing.
- (4) HAMMEL consignments and any returns will travel at the risk of the customer, even if they are transported and installed by HAMMEL employees.
- (5) The delivery shall be made from any warehouse in the sense of Section 5 para. 2 at the risk of the customer, unless otherwise agreed.
- (6) Transport insurance will only be taken out at the request and cost of the customer.

6. Prices / Terms of Payment

- (1) As far as nothing else has been agreed, HAMMEL prices are stated in euros. All HAMMEL prices are "ex works" ("ex works" according to Incoterms® 2010), excluding packaging shipping, handling, insurance and loading. These will be invoiced separately, unless another agreement has been made in writing. The goods will be packed as usual at HAMMEL's discretion and at the customer's expense.
- (2) The HAMMEL 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) Invoices are to be paid without any deductions as follows: 30% for machines upon order confirmation, 70% before delivery, but no later than eight days after notification of completion. For spare parts and customer services: The total price without deduction within 14 days from the invoice date, unless otherwise agreed.
- (4) If the customer is in default of payment, HAMMEL is entitled to claim nine percentage points above the base rate as default damage and, upon completion, storage fees. If HAMMEL is able to prove higher damage caused by delay, HAMMEL is entitled to assert this against the customer.
- (5) Payments in form of cheques or bills of exchange are not accepted. Whether the consignments of a cheque or a bill of exchange will affect a debt-exemption or a debt-deferment. The admissibility to take legal actions for compensation is excluded.
- (6) Circumstances that place the creditworthiness of the customer in doubt in HAMMEL estimation - this includes in particular other open payment items or enforcement measures against the customer - will entitle HAMMEL to the careful assertion of an invoice still outstanding without consideration of their dates of payment. Apart from this, HAMMEL shall be entitled to demand advance payment or the deposit of security according to HAMMEL choice, because of due claims from agreements based on former conditions, and to refuse fulfillment for HAMMEL part until advance payment or a deposit of security.
- (7) In the event of behavior contrary to the contract by the customer, which results in the termination of the business relationship or even the individual contract, all outstanding claims become due immediately and in full upon request.
- (8) Price changes shall be permitted if more than six weeks 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, HAMMEL shall be entitled to increase the price reasonably in accordance with the increases in cost.
- (9) The deduction of a settlement discount shall require a specific written agreement.
- (10) The customer shall only have the right of compensation if his counter claims have been legally recognized or have been accepted by HAMMEL. The customer shall have no right of retention on account of disputed counter claims.

7. Reservation of Proprietary Right

- (1) HAMMEL reserves the ownership of its machines and machine parts until the complete payment of all deliveries that have already taken place and will be taken 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, as long as ownership has not yet passed to him, 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 and to provide HAMMEL with the corresponding proof upon request. 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 ("reserved goods") without the agreement of HAMMEL. Should the customer sell on the delivered goods with HAMMEL agreement, then he shall with that pass on to his buyer the claims arising therefrom together with all the subsidiary rights for securing the claims of HAMMEL 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 and processing of HAMMEL goods are carried out for HAMMEL, without binding HAMMEL. In case of processing with other goods, that do not belong to HAMMEL, by the customer, HAMMEL 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 or the price.
- (5) If the value of the HAMMEL security exceeds the claim of HAMMEL by more than 20%, HAMMEL shall release the excess security.
- (6) The customer must inform HAMMEL immediately of distraint of property or other interventions by third parties so that HAMMEL can file a lawsuit. Should the third party not be in a position to reimburse in and out of court costs such as 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 ownership belongs to HAMMEL. 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 HAMMEL.
- (8) HAMMEL 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 failures to pay. In such cases, taking back or distraint of the reserved goods shall not imply any withdrawal from the contract on the part of HAMMEL.

8. Taking back the goods

- (1) If the HAMMEL claims are not fulfilled or are not fulfilled within the time limits named in sub-section 6 para. 3), HAMMEL shall also be entitled to take back the goods supplied under reserved proprietary right, apart from the assertion of other rights to which HAMMEL shall be entitled, without this being regarded as an exercise of the right to withdraw from the agreement. HAMMEL shall be entitled to the same right if HAMMEL becomes aware of circumstances that no longer allow an allocation of credit to be made in the HAMMEL opinion.
- (2) If HAMMEL takes goods back, 30% of the order price will be remunerated to HAMMEL.

9. Warranty

- (1) All statements, such as construction values, dimensions, weights, diagrams, descriptions, calculations, assembly diagrams and drawings in books and other documentation do not provide any assurance for the presence of a characteristic.
- (2) The customer must advise HAMMEL 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 goods, then he shall thereby lose his rights under warranty. The one-week period shall begin with the day of delivery of the goods. Should the goods not be delivered, then the period shall begin on the day of the transfer of the goods. The broader obligations under paragraphs 377, 381 HGB (German Commercial Code) shall remain unaffected.
- (3) In so far as the goods having a defect which is HAMMEL fault, then HAMMEL shall be entitled to rectify the defect or provide a replacement delivery at its 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. The fulfillment of the warranty takes place principally at the HAMMEL works in Bad Salzungen. If the customer requires warranty locally, transport costs, all travel expenses and accommodation cost will be charged to the customer.
- (4) Natural wear and tear shall be excluded from the warranty in every case.
- (5) The HAMMEL guarantee has the pre-condition that the agreed payment conditions have been fulfilled punctually and the work has been fulfilled. In particular, the implementation of the implementation of inspections (according to the operating manual) by HAMMEL specialist personnel, according to the order of the customer, will be a pre-condition for receiving the guarantee.
- (6) After delivery of a machine, HAMMEL guarantee correct material and appropriate installation for a duration of a maximum of 18 months or 2000 hours in operation at the end of the month of completion (see type plate of the machine) depending on which comes first. For spare parts as well as for work performances applies a warranty of 12 months or 1000 hours in operation at the end of the month of completion (see type plate of the machine) depending on which comes first. The supply of spare parts and the carrying out of repairs without charge is included in the framework of the warranty. Travel, accommodation and transport costs of fees and taxes associated with customs processing are not included, in so far there has been no other agreement.
- (7) HAMMEL shall not be liable for any deficiencies from the sale of used machines or machine parts.
- (8) The warranty is at HAMMEL's option to replace the defective part - replaced parts become the property of HAMMEL - or to rectify them. HAMMEL reserves the right to make several attempts to correct goods. The customer is responsible for sending defective parts back to HAMMEL on request.
- (9) In so far as guarantee work is carried out by third parties with the HAMMEL written agreement, HAMMEL is 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 HAMMEL will be excluded after this time limit has expired.
- (10) 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. No liability will be accepted 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 wear, 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 the HAMMEL guarantee obligation.

10. Claims

- (1) Should the customer enforce claims for compensation, then liability shall be restricted to intent and gross negligence. Except in cases of willful breach of contract, HAMMEL 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 HAMMEL 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 HAMMEL.
- (2) Apart from that, liability for damages shall be excluded. In particular, HAMMEL 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 course of installation or repair, are excluded, taking into account the restrictions listed in Section 11 para. (1), also insofar as they are due to the fault of vicarious agents.
- (4) Any claim for damages, for whatever legal reason, is always limited to the maximum amount of € 1,000,000.00 per claim.
- (5) Should a third party purchase the machine as a final customer and assert claims against HAMMEL for claims for damages, regardless of the legal reason, the customer already contracts HAMMEL today out of any liability of the third party for damage to the goods, other (foreign) goods or lost profit with the exception of the damage we are responsible for in accordance with Section 11 para. (1) and (3).

11. 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 the HAMMEL headquarters if the customer is a sole trader, a full business person, a legal entity under public law or a separate asset under public law. HAMMEL 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 HAMMEL shall require the written agreement of HAMMEL in order to be effective.
- (4) Should a term be or become invalid, then the validity of the other terms shall remain unaffected.
- (5) With regards to content, obligatory and thus valid is only the German version. This English version serves primarily for purposes of understanding. Obligatory statements or a requirement on correctness are not contained in this translation.

12. Change of the general terms and conditions / reservation of change

- (1) HAMMEL is entitled to unilaterally change these general terms and conditions, insofar as this is necessary to remove equivalence disruptions that subsequently arise or due to changed case law or legislation. HAMMEL will inform the contractual partner of a change by sending the contents of the changed regulations to the last known e-mail address or address. The change becomes part of the contract if the contractual partner does not object to HAMMEL in text or in writing within six weeks of receipt of the change notification.

version: 10/09/2020