

The English text below is a translation of the German General Terms and Conditions of Purchase of Höcker Polytechnik GmbH. The English version of the General Terms and Conditions of Purchase below is provided for information purposes only, and does not form part of the contract. The "Allgemeine Einkaufsbedingungen" (General Terms and Conditions of Purchase) of Höcker Polytechnik GmbH form part of the contract. In the case of discrepancies between the German version and the English version, the German version only shall therefore apply.

I. Scope of Application

These General Terms and Conditions of Purchase (hereinafter also referred to as: GTCP) shall apply exclusively to all legal relations between the Supplier and Höcker Polytechnik GmbH (hereinafter referred to as: Höcker) in the area of purchasing. Additional or deviating terms and conditions of the Supplier are hereby explicitly excluded, and shall only apply in cases where they are confirmed in writing by Höcker. Neither silence on the part of Höcker nor the acceptance of the service or payment for the service shall be deemed to be confirmation. Subsidiary agreements, amendments or additions to these GTCP shall only be binding if confirmed in writing by Höcker. The respective version of these GTCP shall also apply to future business transactions with the Supplier, without Höcker having to refer to them again in each individual case.

II. Conclusion of Contract and Amendments to Contracts

1. Each individual contract concerning deliveries and/or services and any amendments, subsidiary agreements and declarations concerning its termination, as well as all other declarations and notifications, shall require the text form, unless otherwise agreed. All offers made by the Supplier shall be submitted free of charge. A purchase order shall not constitute acceptance of an offer made by the Supplier, unless expressly stated in the purchase order. Any references made to offers or letters by the Supplier in purchase orders shall apply exclusively with regard to the object referred to and only to the extent that the purchase order is not inconsistent with the object referred to. If the Supplier fails to accept the purchase order within two weeks of its receipt, then Höcker shall be entitled, but not obliged, to withdraw the purchase order. A delivery by the Supplier based on a purchase order shall be deemed to be acceptance of this purchase order.
2. Every accepted purchase order or contract for the supply of goods and/or the provision of services concluded in any other way shall be called a "supply contract" within the meaning of these GTCP. These GTCP therefore apply in particular to contracts for the sale and/or delivery of movable goods, irrespective of whether the Seller manufactures the goods himself or purchases them from his suppliers.
3. The scope of services is determined in the supply contract. In the case of services under a contract for the performance of works, the Supplier owes the success of the specifically agreed service. The Supplier shall also provide services that are not specifically mentioned in detail in the supply contract, but which are necessary for the complete and proper provision of the scope of services agreed upon, without resulting in the Supplier's entitlement to additional and/or extra claims vis-à-vis Höcker, unless these have been agreed to.
4. The Supplier shall create drawings, data and other documentation in accordance with the requirements of Höcker and the requirements of Höcker's customer and in accordance with the statutory provisions applicable to Höcker and Höcker's customers, including insofar as the delivery and/or service is destined for abroad. On Höcker's request, the Supplier shall provide all the necessary details, in particular as regards the composition of the goods, if this is necessary for compliance with official requirements and with the relevant applicable legal requirements in Germany and abroad, including insofar as they relate to Höcker's customers.
5. The Supplier shall notify Höcker in writing of any concerns he has with regard to the manner of the execution of the delivery and/or service, and shall propose any changes that he considers to be necessary in order to meet the agreed characteristics and/or legal requirements.
6. The Supplier shall be responsible for obtaining on-site information about any local and further ensuing complications and obstacles. In the case of performances within the business premises of Höcker or of Höcker's customers, the Supplier shall observe the safety regulations applicable there.
7. The Supplier shall immediately give written notice of insufficient cooperation on the part of Höcker. Otherwise Höcker shall not be in delay owing to such insufficient cooperation.
8. The Supplier may not transfer obligations arising from the supply contract to third parties without the prior consent of Höcker in text form.

III. Prices, Conditions of Payment, and Retention of Title

1. The agreed prices are fixed prices plus any value-added tax that may be applicable. Unless otherwise agreed in individual cases, the price shall include all services and ancillary services to be performed by the Supplier (such as assembly and installation), as well as all ancillary costs (such as for appropriate packaging and transport costs, including any transport insurance and liability insurance). The Supplier shall not be entitled to any further payments, unless agreed upon in the purchase order or in any other way in writing between Höcker and the Supplier. Unless otherwise agreed, payments shall be made within 14 days with a 3% discount or within 30 days without deduction. The time limit shall commence upon the receipt of the contractual services (and the acceptance of performance in the case of services under a contract for the performance of works) and of a proper and verifiable invoice stating the order number and/or part number. The time limit shall commence at the earliest, however, on the stipulated delivery date, even if Höcker accepts early deliveries.
2. The Supplier shall not be entitled to assign claims against Höcker to which he is entitled or to have these collected by third parties. The Supplier shall only be entitled to offset against Höcker's claims or to assert a right of retention when and insofar as his claims are undisputed or have been established as final and conclusive.
3. In the event of a delivery and service that is not free of defects, Höcker shall be entitled to withhold the payment of the respective amount until the delivery and service has been provided in accordance with the purchase order. In the event of a delivery that is not free of defects, the Supplier shall not be entitled to charge default interest.
4. Statutory provisions shall apply with regard to the occurrence of a delay on the part of Höcker, whereby by way of derogation, where applicable, the Supplier shall issue a written warning in any case. Any debt shall bear interest at 5 percentage points above the relevant base lending rate.
5. The ownership of goods supplied shall be transferred to Höcker upon complete payment. Any prolonged or expanded retention of title by the Supplier shall be excluded.

IV. Delivery Conditions and Place of Performance

The delivery shall be made in accordance with the conditions specified by Höcker in the relevant purchase order. In the event of no such agreement, the delivery shall be made DDP (delivered duty paid) to the place designated by Höcker as per (INCOTERMS 2010). The delivery note shall contain Höcker's order and supplier number. The Supplier shall inform Höcker of any official approvals and reporting obligations required for the import and use of the delivery items. The place of performance shall be the reception point designated by Höcker.

V. Delay in Delivery

1. The stipulated delivery dates and deadlines are binding. The Supplier shall inform Höcker in writing without delay of any likely delay of performance, stating the grounds and the expected length of the delay. If he fails to meet this obligation, then this shall be considered as gross negligence, entitling Höcker to claim damage compensation from the Supplier.
2. If the Supplier is responsible for the failure to comply with the deadlines in accordance with his contractual obligations, then all costs resulting from this shall be at his expense.

VI. Packaging, Inspection Obligation, and Acceptance

1. Unless specified by Höcker or the joint customer, the Supplier shall ensure that the delivery item is packaged securely as customary in trade. Wood packaging material, and especially pallets, must comply with ISPM 15 (International Standards for Phytosanitary Measures) of the International Plant Protection Convention (IPPC) of the United Nations Food and Agriculture Organization, as applicable at the time of delivery in each case. Packaging material must be labelled accordingly, and corresponding certification must be available to the Supplier, and made available to Höcker on request. Höcker shall only conduct an incoming goods inspection with regard to obvious deficiencies and transport damage. The delivery item shall be examined during assembly and commissioning, where Höcker has undertaken the assembly and/or commissioning. In this respect, the Supplier waives the right of objection to belated notice of defects.
2. Where acceptance is contractually agreed and/or provided for by law, the Supplier's service shall be formally accepted. Höcker's use of the Supplier's service, or part thereof, and/or Höcker's payment shall not take the place of acceptance. Partial acceptance is excluded, unless expressly agreed.

VII. Property Provided by Höcker

1. If Höcker or Höcker's customer provides the Supplier with tools, templates, matrices, measuring instruments, devices, moulds, samples and associated software, drawings and other accompanying documentation ("property provided"), these shall remain the property of Höcker or Höcker's customer. The Supplier may only use the property provided to manufacture the delivery item or to perform the supply contract; the Supplier may not use it or allow others to use it for any other purpose without the prior written consent of Höcker. The Supplier shall keep the property provided in good condition at his own expense, and shall replace it when necessary. The Supplier shall insure the property provided at his own expense amounting to the replacement costs in the event of loss. The Supplier hereby assigns all his payment claims against the insurer to Höcker; Höcker accepts this assignment.
2. The Supplier shall treat the property provided carefully and harmlessly, and shall hold Höcker harmless against any claims, liability, expenses and damages arising from or associated with the installation, use, storage or repair of the property provided. Höcker or Höcker's customer shall be entitled to enter the Supplier's premises during usual business hours and to check the property provided and any corresponding records. Höcker shall notify the Supplier about the inspection in text form 24 hours beforehand.
3. The Supplier agrees that Höcker is entitled to remove the property provided at any time and without reason and payment or to request its surrender. If Höcker makes such a request, the Supplier shall return the property provided without delay and shall prepare it for dispatch or shall deliver it to Höcker or Höcker's customer. Any possible right of retention by the Supplier shall be excluded, irrespective of the legal grounds. Höcker shall pay the Supplier appropriate delivery costs.
4. If the Supplier processes the property provided or combines or mixes it with objects not owned by Höcker, then Höcker shall acquire joint ownership of the new product proportional to the value of the property provided to the value of the product as a whole.

VIII. Intellectual Property / Property Rights / Transfer and Granting of Rights

1. Höcker shall retain ownership and all other rights, such as copyright, to the information provided to the Supplier by Höcker. The Supplier shall carefully store all documentation and objects that he has been provided with, as well as duplications, at his expense, and shall return or destroy these at any time at Höcker's request. The Supplier shall have no right of retention, irrespective of the grounds.
2. The Supplier shall be liable for all claims arising from the violation of property rights or applications for property rights following the contractual use of the delivery item. The Supplier shall indemnify Höcker and Höcker's customers from all claims that may arise from the use of such property rights or applications for property rights. The Supplier grants Höcker a non-exclusive, royalty-free, permanent and worldwide right of use to the Supplier's own rights for meeting the obligations assumed in the supply contract for any use of these rights.

IX. Maintenance of Secrecy, and Competition

1. The Supplier shall maintain secrecy in respect of all commercial and technical details that are not in the public domain that are surrendered to him by Höcker, in particular drawings, models, templates, samples, data carriers, and so on, and shall not surrender them or make them otherwise available to third parties (including subcontractors) without the written consent of Höcker. Such information may only be duplicated within the framework of operational requirements and copyright provisions. Subcontractors shall be placed under a similar obligation.
2. These obligations of the Supplier shall not apply in the case of information that was already legitimately known to him upon its receipt without being obliged to maintain secrecy or that legitimately became known to him without being obliged to maintain secrecy, that was already generally known or generally became known or for which the Supplier was granted written permission from Höcker to use the information in any other way.
3. During the term of the individual contract and for a period of two years following the completion of the individual order, the Supplier may not provide any other direct or indirect services and deliveries for Höcker's customer for whom the services and deliveries provided within the individual contract were intended; nor may he submit offers associated with the services in the individual contract. Höcker's customer is expressly mentioned in the individual contract. If a business relationship already exists between the Supplier and Höcker's customer before the announcement of the first individual order, then the Supplier shall notify Höcker of this fact immediately in writing. The protection of competition shall then be withdrawn or restricted for this customer.
4. In the event of a culpable breach of the obligations in accordance with the aforementioned provisions, each case of infringement shall incur a contractual penalty amounting to EUR 25,000.00 by the Supplier. However, the Supplier retains the right to have the appropriateness of the amount of the contractual penalty established by court. Any further damage claims to which Höcker is entitled shall be offset against contractual penalties paid.

X. Warranty, Liability, and Damage Compensation

1. The Supplier shall guarantee that the subject of the contract is free of defects and supplied in conformity with Höcker's requirements. Where the Parties have agreed that the subject of the contract is destined for a specifically named country, unless otherwise agreed, the subject of the contract must exhibit the quality and suitability of use that is customary in that country. In addition, the subject of the contract must be free of any enforceable rights or third-party claims in the relevant country. Where no particular country is named in the contract, the delivery item is destined for the Federal Republic of Germany. If the delivery item is deficient, then the Supplier shall be liable towards Höcker in accordance with statutory provisions, unless otherwise provided for in the provisions below. In urgent cases, Höcker shall be entitled to rework items itself or to have it performed by third parties without any previous attempt to provide rectification having been made by the Supplier. The Supplier shall bear any costs incurred by such reworking. An urgent case exists in particular when Höcker's operating safety is endangered, when there is a risk of unusually high damage being incurred or when Höcker is unable to wait for a rework by the Supplier in order for Höcker to be able to maintain supply availability.
2. If the Supplier uses third parties in the provision of services, he shall be liable for these in the same way that he is for his own vicarious agents.
3. The Supplier shall be liable for deficiencies that occur within 36 months of Höcker receiving the delivery, unless a longer warranty period is provided for by law. Insofar as acceptance of performance has been agreed upon, the time limit shall commence upon acceptance. The 36-month warranty period shall also apply accordingly for claims arising from defects of title; in addition, claims arising from defects of title shall not become statute-barred in any case, as long as the third party that invokes the right can still make demands on Höcker.
4. In the event of supplementary performance, the aforementioned time limits shall be extended by the time during which the delivery item cannot be used in conformity with the contract. The limitation period of claims due to deficiencies shall begin two months after Höcker's buyers' claims have been met by Höcker at the earliest, and, at the latest, however, after the end of five years following the delivery or acceptance. The Supplier shall indemnify Höcker from claims of third parties due to product liability when and insofar as the damage was caused by a flaw in the delivery item supplied by the Supplier. The right of indemnity shall apply only to the extent at which the Supplier himself would be directly liable.
5. The Supplier shall assign to Höcker any possible reimbursement claims arising from warranty claims he has against an insurer; Höcker accepts the assignment; the Supplier shall immediately present up-to-date insurance certificates to Höcker at its request.

XI. Quality and Documentation

1. The Supplier shall comply with the recognised rules of technology, safety regulations, legal requirements and the stipulated technical specifications (e.g. customer requirements that have been communicated, IMDS requirements or REACH) with regard to his deliveries, including those that shall be complied with in the relevant country for which the delivery is destined, according to the contractual agreement. Any changes to the delivery item shall require the prior written consent of Höcker.
2. Irrespective of this, the Supplier shall constantly monitor the quality of delivery items. The Supplier is obliged to use the documents stipulated by Höcker's quality assurance for documentation and to comply with the specifications as amended from time to time. The Supplier guarantees that the goods he supplies are in conformity with statutory and/or official requirements, including those of the country for which the delivery is destined, according to the contract content.
3. The Supplier undertakes to document on an item basis the names of his upstream suppliers; this information shall be provided to Höcker on request. The Supplier shall also place his relevant upstream suppliers under the obligation to document such information on an item basis.

XII. Origin of Goods, and Preference

1. The Supplier undertakes to issue all commercial and other documents that are necessary in accordance with the applicable legal requirements for their import to Germany, and to enclose them with the delivery.
2. Upon delivery, a valid supplier's declaration as defined by Council Regulation (EC) No 1207/2001 shall be presented in the case of a first delivery being made to Höcker. A reference to the delivery shall be established by stating the item number on the supplier's declaration.
3. Hereafter, Höcker shall be provided free of charge with a long-term supplier's declaration at the turn of the year without having to make such a request.
4. If it is not possible to issue a supplier's declaration with preferential origin status, a declaration of origin shall be enclosed with the delivery.
5. The Supplier shall be responsible for the accuracy and completeness of the supplier's declaration. The Supplier shall assume full liability for incorrectly issued supplier's declarations and any resulting claims asserted by Höcker's customers. Höcker shall check in a random manner the accuracy of a supplier's declaration using information certificate INF 4 issued by the customs authorities. It is not permitted to make a fundamental change to the purchased goods in terms of the quality, the customs tariff number, the country of origin and preferential status.

XIII. Force Majeure

In the event of force majeure, e.g. natural disasters, unrest, official measures or other unforeseeable and unavoidable events, the Supplier and Höcker shall be exempt from the mutual obligations to perform for the duration of the disturbance and the extent of its impact. The party affected shall inform the other contractual partner in detail without delay and shall take all reasonable measures to limit the effects of such events.

XIV. Termination of the Contract

In the event of a longer-term supply commitment, the suspension of payment or the opening of insolvency proceedings, the rejection of the opening of such proceedings for lack of assets or the institution of comparable proceedings as well as the submission of a declaration in lieu of an oath against the assets of a contractual partner shall entitle the other contractual partner to withdraw from the supply contract with regard to the part that has not yet been performed. If Höcker withdraws from the supply contract or a part thereof for one of the aforementioned reasons or for any other reason for which the Supplier is responsible, then only the finished delivery items supplied by the time of the notice of withdrawal in compliance with the provisions of the supply contract shall be paid for by Höcker. Other acceptable grounds for withdrawing from the supply contract or a part thereof are the assumption that the Supplier will fail to meet his obligations concerning supplementary performance within an appropriate time limit set by Höcker. Höcker shall be entitled to make claims against the Supplier for damage compensation beyond this.

In the event that the Supplier withdraws from the supply contract or a part thereof, he shall inform Höcker in writing in such good time that Höcker is able to have the delivery items manufactured by another supplier without any problems and to have the requirements undertaken accordingly. The Supplier is obliged to fulfil the supply contract until the new supplier is able to supply the subject of the contract in accordance with the specifications and supply contract. The Supplier is obliged to support Höcker in the search for a suitable alternative supplier and to secure deliveries by subcontractors and suppliers of raw materials for the subject of the contract.

XV. Anti-Corruption Law Provisions

1. The Supplier assures that he shall not take any actions or omit to take any actions that, irrespective of the form of participation, could lead to regulatory or criminal proceedings, in particular due to corruption, being taken against the Supplier, persons employed by the Supplier or third parties commissioned by the Supplier. The Supplier is responsible for taking suitable measures to ensure infringements are avoided. For this purpose, the Supplier shall in particular place persons he employs and third parties he commissions under similar obligations.
2. The Supplier undertakes to provide information on the aforementioned measures at Höcker's written request, in particular about their content and implementation. In addition, the Supplier shall immediately inform Höcker of the initiation of official preliminary investigations due to a breach. In addition, if there are indications of a breach by the Supplier, Höcker shall be entitled to request written information about the breach and the measures taken.
3. In the event of a breach, Höcker shall be entitled to request immediate discontinuance by the Supplier and the reimbursement of all damages incurred by Höcker due to the breach.

XVI. General Provisions

1. If the Supplier is a merchant, a legal entity under public law or a special fund under public law, then the jurisdictional venue shall be Höcker's relevant place of business. However, Höcker is also entitled to sue the Supplier at another competent court.
2. German law applies to the contractual relationship, with the exception of the United Nations Convention on Contracts for the International Sale of Goods (UN Sales Convention/CISG).
3. If a provision is or becomes invalid, then the validity of the remaining provisions shall not be affected.