

## 1 General / Scope of Application

- 1.1 These General Terms and Conditions of Hoenle WebCure GmbH, 72664 Kohlberg, (hereinafter "Hoenle") apply to all contracts for the manufacture, sale, and delivery of Hoenle's products and services (hereinafter "Products") with legal entities, or with any person who, at the time of concluding the contract, is acting in the exercise of their commercial or independent professional activity (entrepreneur), as well as with legal entities under public law or special funds under public law (hereinafter collectively referred to as "Customer").
- 1.2 The manufacture, sale, and delivery of the Products shall be carried out exclusively in accordance with these General Terms and Conditions (hereinafter "GTC"). The applicability of conflicting or deviating terms and conditions of the Customer is excluded. The GTC of Hoenle shall also apply if Hoenle, being aware of conflicting or deviating terms and conditions of the Customer, executes the delivery or performance to the Customer without reservation. They shall also apply to future business relations with the Customer, even if they are not expressly agreed upon again.

## 2 Offer / Conclusion of Contract / Reservation of Amendments

- 2.1 Offers made by Hoenle are non-binding. The order from the Customer constitutes an offer to conclude a contract and Hoenle may accept this offer within four weeks of receipt.
- 2.2 The acceptance of an offer by Hoenle may be made either by declaration in text form (in writing, by fax, or by e-mail) or by performing the commissioned service.
- 2.3 In the case of contracts agreed orally, the scope of Products of Hoenle shall be determined by written contract confirmation from Hoenle.
- 2.4 Hoenle reserves the right to make changes to the design, form, and execution of the Product, provided that the quality and usability of the item are not impaired or that the deviation is not unreasonable for other reasons.

## 3 Delivery / Performance Period / Delay in Delivery

- 3.1 Partial deliveries are permitted and oblige the Customer to pay the proportionate remuneration, unless the partial delivery would be unreasonable for the Customer.
- 3.2 Insofar as Products are to be provided by Hoenle at the Customer's request, the Customer – unless otherwise agreed – is obliged to accept partial deliveries in approximately equal quantities. Furthermore, the respective agreed partial delivery shall be deemed requested by the Customer 14 days after the expiry of the period agreed for the request. If no period has been agreed, the total delivery shall be deemed requested 14 days after notification of readiness for delivery by Hoenle, and the Customer shall automatically be in default of acceptance if they fail to request or accept the Products.
- 3.3 The commencement of any delivery period specified by Hoenle is conditional upon the clarification of all technical questions.
- 3.4 The delivery and performance periods specified by Hoenle are non-binding and without obligation, unless expressly agreed otherwise in writing.
- 3.5 Compliance with the delivery obligation further requires the timely and proper fulfillment of the Customer's obligations. The right to raise the defense of non-performance of the contract remains reserved.
- 3.6 Delivery periods are deemed met if, by the end of the period, the contractual item has left Hoenle's works or readiness for dispatch has been notified.
- 3.7 Events of Force Majeure (Clause 11 of the GTC) entitle Hoenle to postpone the performance by the duration of the impediment.
- 3.8 Hoenle shall be liable under statutory provisions for any delay in delivery, provided that such delay is due to an intentional or grossly negligent breach of contract for which Hoenle is solely responsible; the fault of Hoenle's representatives and vicarious agents shall be attributed to Hoenle. If the delay in delivery is not based on an intentional breach of contract by Hoenle, liability for damages shall be limited to foreseeable, typically occurring damage. Furthermore, Hoenle shall be liable under statutory provisions insofar as the delay for which Hoenle is responsible is due to a culpable breach of an essential contractual obligation; in such case, however, liability for damages shall be limited to foreseeable, typically occurring damage.
- 3.9 If the Customer defaults on acceptance or culpably breaches other cooperation obligations, Hoenle shall be entitled to claim compensation for any damage incurred, including any additional expenses. The risk of accidental loss or accidental deterioration of the contractual item shall pass to the Customer at the time the Customer defaults on acceptance. If shipment or delivery is delayed at the Customer's request by more than 14 days after notification of readiness for dispatch, Hoenle may charge storage fees of 0.5% of the price of the items for each week or part thereof, but not exceeding a total of 5%. The right to provide evidence of higher or lower storage costs remains unaffected for both Hoenle and the Customer.

## 4 Prices, Terms of Payment, Default of Payment, Set-off, Right of Retention

- 4.1 The prices apply to the scope of services and delivery specified in the order confirmation. Additional or special services will be charged separately. Prices are quoted in EUR plus packaging, shipping, costs for returning packaging, statutory value added tax, fees, and other public charges; for export deliveries, customs duties will be added.
- 4.2 The remuneration due shall be payable within 30 days of the invoice date without deduction. If payment is made within 14 calendar days of the invoice date, Hoenle grants a discount of 2% on the invoice amount, provided that there are no older outstanding claims. The date of receipt of payment in the account of Hoenle is decisive.  
For service and maintenance work, repairs, delivery of spare parts, etc., the payment term shall be 14 days from the invoice date without deduction.  
Timely payment is determined by the crediting of the amount to the account of Hoenle specified on the invoice. If the Customer fails to pay the remuneration within the aforementioned period, they shall be in default without the need for a reminder. Further claims for damages remain unaffected.
- 4.3 Hoenle reserves the right to determine the payment terms like advance payment or partial payments (installments) for each order.
- 4.4 If, after the conclusion of the contract, concerns arise regarding the Customer's ability to pay or creditworthiness, such that Hoenle's payment claims appear to be at risk, Hoenle shall be entitled to require performance only against advance payment of the full amount due or against security in the form of an unconditional, irrevocable guarantee from a major German bank. If the Customer does not comply with this request within the set period despite a warning of contract rescission, Hoenle may withdraw from the contract without the Customer being entitled to any claims for damages.
- 4.5 If Hoenle has undertaken the installation or assembly of the Product and no other agreement has been made, the Customer shall bear, in addition to the agreed remuneration, all necessary incidental costs, such as travel expenses, transport costs, and allowances.
- 4.6 The Customer shall only be entitled to set off claims if its counterclaim has been legally established, is undisputed, or has been acknowledged by Hoenle.
- 4.7 The Customer shall only be entitled to exercise a right of retention if its counterclaim has been legally established, is undisputed, or has been acknowledged by Hoenle.

## **5 Customer's Cooperation Obligations / Acceptance**

- 5.1 The Customer is obliged to provide Hoenle with all documents required for the performance of the service free of charge and in a timely manner. Unless expressly agreed otherwise, Hoenle shall not be obliged to examine the content of the documents provided by the Customer or the requested requirements (specifications, functions, and technical details) for possible errors or for infringement of third-party rights arising from the implementation of the described requirements.
- 5.2 Insofar as the Customer performs its own contributions or services are provided by third parties (including the delivery of goods), the Customer shall be responsible for coordinating the individual workflows and for complying with the applicable safety regulations and accident prevention requirements.
- 5.3 The Customer is obliged to inspect the delivery immediately and, if necessary, to report any discrepancies or defects without delay.
- 5.4 If the Customer fails to fulfill their cooperation obligations to the required extent, or if Hoenle is prevented from performing its obligations due to circumstances within the Customer's risk sphere, Hoenle shall be released from its performance obligations for the duration of the disruption and to the extent of its effect and may claim reasonable compensation for any additional expenses incurred as a result. In such cases, Hoenle will offset any costs saved or revenues earned from other assignments. The risk of accidental loss or accidental deterioration of the service shall pass to the Customer at the time the Customer defaults on acceptance.
- 5.5 Where Hoenle provides a work performance or a work delivery, or specifically requests acceptance after completion of assembly, installation or setup, the Customer is obliged to carry out the acceptance of the service or delivery within 10 days of notification of completion or delivery. If the Customer fails to respond or does not accept the Product or delivery without providing a reason within the 10 days period, acceptance shall be deemed to have occurred at the time of delivery. Acceptance shall also be deemed to have occurred if the Product is used, whichever occurs first (no acceptance without giving reasons within 10 days or the use of the Product). The Customer shall not refuse to accept deliveries or the Product due to minor defects.

## **6 Installation / Assembly / Setup**

- The following provisions shall apply to installation, assembly, and setup, unless otherwise agreed in writing.
- 6.1 The Customer shall, at its own expense, provide and make available in a timely manner:
    - a) All earthworks, construction, and other ancillary work, including the necessary skilled and auxiliary personnel, construction materials and tools;
    - b) Items and materials required for assembly and commissioning, such as scaffolding, lifting equipment, other devices, fuels, and lubricants;
    - c) Energy and water at the place of use, including connections, heating, and lighting;
    - d) At the assembly site, sufficiently large, suitable, dry, and lockable rooms for storing machine parts, apparatus, materials, tools, etc., as well as adequate working and rest areas for assembly personnel, including sanitary facilities appropriate to the circumstances. Furthermore, the Customer shall take the measures necessary to protect the delivered items and assembly personnel on site as they would for their own employees;
    - e) Protective clothing and safety equipment required due to special circumstances at the assembly site.
  - 6.2 Prior to the commencement of assembly work, the necessary preparatory work shall be sufficiently advanced so that assembly can begin as agreed and be carried out without interruption. Access routes and the assembly site shall be leveled and cleared. Furthermore, before the start of assembly work, the Customer shall provide, without request, the necessary information regarding the location of concealed electrical, gas, water, or similar lines, as well as the required structural data.
  - 6.3 If assembly or commissioning is delayed due to circumstances for which Hoenle is not responsible, the Customer shall bear, to a reasonable extent, the costs for waiting time and any additional travel required by Hoenle or its appointed assembly personnel.

## **7 Transfer of Risk / Transport Insurance**

- 7.1 Deliveries by Hoenle are made per FCA Incoterms 2020, registered office of Hoenle. The risk shall pass to the Customer when the contractual item is handed over to the carrier (i.e., the person executing the transport); this shall also apply if the transport is carried out by Hoenle itself.
- 7.2 In the case of shipment, Hoenle shall, at the Customer's request and expense, take out transport insurance in its favor. Transport damages must be reported in writing without delay to Hoenle and to the delivering carrier.

## **8 Retention of Title / Security**

- 8.1 Hoenle retains ownership of the contractual item until all outstanding claims arising from the business relationship with the Customer have been settled. In the event of a breach of contract by the Customer, in particular default of payment, Hoenle shall be entitled to repossess the contractual item; such repossession shall constitute a withdrawal from the contract. After repossession, Hoenle is entitled to realize the item, and the proceeds of such realization shall be credited against the Customer's liabilities, less reasonable costs of realization.
- 8.2 The Customer is obliged to handle the contractual item with care; in particular, the Customer must, at their own expense, adequately insure it against fire, water, and theft damage for its replacement value. If maintenance and inspection work is required, the Customer must carry it out in a timely manner at their own expense.
- 8.3 In the event of seizures or other interventions by third parties, the Customer shall immediately notify Hoenle in writing so that Hoenle may file an action against third-party interference. To the extent that the third party is unable to reimburse Hoenle for the court and out-of-court costs of such action, the Customer shall be liable for any resulting loss incurred by Hoenle.
- 8.4 The Customer is entitled to resell the contractual item in the ordinary course of business; however, the Customer hereby assigns to Hoenle all claims arising from such resale against its customers or third parties up to the invoice amount of Hoenle's claim, whether the contractual item is resold in its original or processed form. The Customer remains authorized to collect these claims even after the assignment. Hoenle retains the right to collect the claims itself. However, Hoenle undertakes not to collect the claims as long as the Customer meets its payment obligations from the proceeds received, is not in default of payment, and, in particular, has not filed for settlement or insolvency proceedings or ceased payments. In such cases, Hoenle may require the Customer to disclose the assigned claims and their debtors, provide all information necessary for collection, hand over the relevant documents, and notify the debtors (third parties) of the assignment.
- 8.5 Any processing or modification of the contractual item by the Customer shall always be carried out on behalf of Hoenle. If the contractual item is processed together with other items not owned by Hoenle, Hoenle shall acquire co-ownership of the new item in proportion to the value of the contractual item (invoice amount) relative to the other processed items at the time of processing. Otherwise, the same provisions shall apply to the item resulting from processing as to the contractual item delivered under retention of title.

- 8.6 If the contractual item is inseparably mixed with other items not owned by Hoenle, Hoenle shall acquire co-ownership of the new item in proportion to the value of the contractual item (invoice amount) relative to the other mixed items at the time of mixing. If the mixing is carried out in such a way that the Customer's item is considered the principal item, it is agreed that the Customer shall transfer proportional co-ownership to Hoenle. The Customer shall store the resulting sole ownership or co-ownership on behalf of Hoenle.
- 8.7 The Customer also assigns to Hoenle the claims arising in favor of the Customer against a third party from the attachment of the contractual item to real property, as security for Hoenle's claims against the Customer.
- 8.8 Hoenle undertakes to release, at the Customer's request, such security to which Hoenle is entitled to the extent that the realizable value of the security exceeds the claims to be secured by more than 10%; the choice of which security to release shall remain at Hoenle's discretion.

## **9 Liability for Defects / Warranty**

- 9.1 The assertion of the Customer's rights in the event of defects requires that the Customer has properly fulfilled its duties of examination and notification of defects in accordance with commercial practice.
- 9.2 If a defect in the contractual item exists, the Customer shall be entitled, at Hoenle's discretion, to either subsequent performance in the form of defect rectification or delivery of a new, defect-free item. In the case of defect rectification, Hoenle is obliged to bear all expenses necessary for the purpose of rectifying the defect, in particular transport, travel, labor, and material costs, provided that these costs are not increased by the contractual item being moved to a location other than the place of performance.
- 9.3 Claims for defects do not exist in cases of merely insignificant deviations from the agreed quality, minor impairments of usability, normal wear and tear, or damages occurring after the transfer of risk due to incorrect or negligent handling, excessive use, unsuitable operating resources, defective construction work, inappropriate foundation, improper installation by the Customer, electrical disturbances caused by other devices or wiring of the Customer, incompatibility with the Customer's overall system (interoperability and compatibility) if Hoenle has not explicitly confirmed suitability for the overall system in writing, or damages caused by special external influences not assumed under the contract, as well as non-reproducible software errors. If improper modifications or repair work are carried out by the Customer or third parties, no claims for defects exist for these or the resulting consequences.
- 9.4 Claims by the Customer for expenses necessary for supplementary performance, in particular transport, travel, labor, and material costs, are excluded to the extent that such expenses increase because the delivered item has subsequently been moved to a location other than the Customer's premises, unless the relocation corresponds to the intended contractual use.
- 9.5 If supplementary performance fails repeatedly, the Customer is entitled, at their discretion, to demand rescission of the contract or a reduction in price.
- 9.6 The limitation period for claims due to defects is 12 months, calculated from the transfer of risk.
- 9.7 The Customer shall report obvious defects to Hoenle in writing without delay, however, at the latest within 7 days from delivery; the Customer shall report in writing hidden defects within 7 days after discovery.

## **10 Total Liability**

- 10.1 Hoenle shall be liable under statutory provisions if the Customer asserts claims for damages based on intent or gross negligence, including intent or gross negligence of Hoenle's representatives or vicarious agents. To the extent that Hoenle has not committed an intentional breach of contract, liability for damages is limited to the foreseeable, typically occurring damage.
- 10.2 Hoenle shall be liable under statutory provisions if Hoenle culpably breaches a material contractual obligation; in such a case, liability for damages is limited to the foreseeable, typically occurring damage.
- 10.3 Liability for culpable injury to life, body, or health remains unaffected; this also applies to mandatory liability under the Product Liability Act.
- 10.4 Unless otherwise regulated above, liability is excluded. This specifically applies to claims for indirect damages, consequential damages and loss of profit as well as damages arising from fault at contract conclusion, other breaches of duty, or tortious claims for compensation of property damage. It also applies if the Customer, instead of claiming damages, seeks reimbursement of futile expenses.
- 10.5 To the extent that Hoenle's liability for damages toward the Customer is excluded or limited, this also applies to the personal liability of Hoenle's employees, workers, staff, representatives, and vicarious agents.

## **11 Force Majeure**

- 11.1 Hoenle shall not be liable for any damages of any kind resulting from Force Majeure events such as labor disputes, strikes, lockouts, war, war-like situations, civil unrest, unintentional operational disruptions, official measures, import and export bans, shortages of energy or raw materials, untimely self-supply not attributable to Hoenle, weather-related disruptions of any kind, power outages, floods, landslides, volcanic eruptions, pandemics, epidemics, and other unavoidable events.
- 11.2 If the Force Majeure event or its effects continue for more than 30 days, the Customer may withdraw from the contract. In the event of such withdrawal, the Customer must demonstrate that the complete or partial fulfillment of the contract is no longer of interest to them due to the delay.
- 11.3 If the Force Majeure event or its effects significantly alter the economic importance or the content of the performance for Hoenle, or substantially affect the operations of Hoenle, the contract shall be adjusted appropriately in accordance with the principles of good faith. If such an adjustment is not economically feasible, Hoenle shall have the right to withdraw from the contract. This also applies if an extension of the delivery period was initially agreed with the Customer.

## **12 Intellectual Property**

- 12.1 All documents created by Hoenle, including proposals, cost estimates, drafts, drawings, calculations, data sheets, operating manuals, or similar documents ("Hoenle Documents"), remain the exclusive property of Hoenle, including all usage rights, and may not be reproduced or made accessible to third parties without Hoenle's written consent. If no contract is concluded, the Hoenle Documents must be returned to Hoenle immediately and in full, and any copies made must be destroyed.
- 12.2 Any inventions made by Hoenle in the course of the business relationship with the Customer are exclusively exploitable by Hoenle, including all rights derived therefrom, in particular patent rights.

## **13 Confidentiality**

- 13.1 Customer shall treat any information obtained from Hoenle as confidential and shall not disclose it to third parties, unless it is generally known or has become known to the Customer by other lawful means.
- 13.2 The mutual exchange of information and the transfer of data, drawings, samples, etc., regardless of whether or not they are protected

by property rights, shall not expressly grant any rights to patent applications, patents, designs, utility models, or trademarks, property rights, license rights, reproduction rights, usage rights, naming rights, or other rights, nor shall it grant any options thereto.

- 13.3 Customer is not permitted to exploit or imitate information from Hoenle in any way outside the scope of the contract for commercial purposes (in particular by means of "reverse engineering") or to have it exploited or imitated by third parties, and in particular to register industrial property rights – in particular trademarks, designs, patents, or utility models – based on the information.

#### **14 Miscellaneous**

- 14.1 If the Customer is a merchant, the registered office of Hoenle shall be the place of jurisdiction; however, Hoenle is also entitled to sue the Customer at the Customer's place of jurisdiction.
- 14.2 Unless otherwise specified in the order confirmation, the registered office of Hoenle shall be the place of performance.
- 14.3 Contracts with the Customer are governed by the law of the Federal Republic of Germany, excluding the provisions of private international law that refer to another legal system, and excluding the UN Convention on Contracts for the International Sale of Goods (CISG).
- 14.4 The Customer is solely responsible for complying with the applicable foreign trade regulations.
- 14.5 The Customer ensures that when shipping products obtained from Hoenle (either forwarding to third parties or returning to Hoenle), that he complies with all foreign trade, export control, and dangerous goods regulations (including EU Dual-Use Regulation, ADR/RID/IMDG, ICAO/IATA) and indemnifies Hoenle against any third-party claims.
- 14.6 Any amendment or supplement to the contracts with the Customer shall be made in writing. This also applies to any waiver of the requirement for written form. Oral side agreements or arrangements are not valid.
- 14.7 Should one or more provisions of these GTC be or become wholly or partially invalid, ineffective, or unenforceable, the validity of the remaining provisions shall remain unaffected. In place of the wholly or partially invalid, ineffective, or unenforceable provision, the contracting parties shall agree on a provision that they would have agreed upon had they been aware, at the time of agreeing to these GTC, of the complete or partial invalidity, ineffectiveness, or unenforceability of the respective provision. This also applies in the case of an unintended gap in these GTC. This severability clause does not merely reverse the burden of proof but may result in the total invalidity of the contract as a whole.

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