

## General Terms and Conditions of Purchase (as of 11/2023)

### I. General / Scope

1. Our following terms and conditions of purchase shall apply to contracts of all German companies of the heristo AG group of companies with other entrepreneurs within the meaning of Section 310 (1) of the German Civil Code (BGB).
2. Our terms and conditions of purchase shall apply exclusively; any terms and conditions of our contractual partner deviating from them shall not be valid unless we have expressly agreed to their validity in writing in advance. Our Terms and Conditions of Purchase shall also apply if we execute the transaction with knowledge of deviating terms and conditions of our contractual partner.
3. They shall also apply to all future business relations.
4. Agreements and additional agreements deviating from these terms and conditions of purchase must be set down in writing in the contract.

### II. Offer/Prices

1. Our orders are only binding if they are made in writing or if we confirm them in writing subsequent to a verbal or telephone order.
2. We shall no longer be bound by an offer made which the supplier does not accept within two weeks.
3. The prices stated in our orders are binding. They are exclusive of the statutory value added tax. Unless otherwise agreed in writing, they include delivery "free domicile" including packaging costs, in case of import also customs duties and other import taxes.
4. In the case of the agreement "price subject to change", the price valid on the day of delivery shall be deemed to be agreed.
5. In the case of a contractual relationship which has as its object the regular purchase of goods by us, our contractual partner undertakes, even in the case of bindingly agreed prices, to take into account price changes in our favor, in particular if he reduces his prices concerned generally or for a large number of his customers. This shall apply accordingly in the case of a contractual relationship which has as its object the delivery of goods which we do not intend to purchase until four months after the conclusion of the contract.
6. We shall only grant remuneration or compensation for visits, preparation of offers, brochures, cost estimates, etc. if this has been expressly agreed in writing.
7. Our contractor guarantees that the prices and other conditions offered by him without violating the prohibition of restrictive practices have come about. Should it be determined by a court or an antitrust authority that the Seller has violated this prohibition or participated in such conduct, the Seller shall be obligated to pay us liquidated damages in the amount of 5% of the purchase price in the affected reference period plus statutory interest, unless the Seller proves to us a lesser damage (or the non-occurrence of a damage) or we prove a higher damage. Further statutory or contractual claims for compensation on our part shall remain unaffected. The Seller shall provide us with all information necessary to verify the existence of our claims.

### III. Performance of our contractual partner

1. If we refer to specified drawings, illustrations, calculations, plans and tolerance specifications in our order, we agree with our contractual partner on the resulting properties as the contractually owed quality of the goods to be delivered. This also applies to the presentation and labeling according to our specifications.
2. The submission of drawings, illustrations, calculations, plans and tolerance specifications by us shall not release the contracting party from its obligation to check these documents for their correctness and suitability for the manufacture and delivery of the ordered products.
3. If our orders are based on samples and specimens, the quality of these samples and specimens shall be deemed to be guaranteed by the contractual partner.
4. If we order products of the same type several times on the basis of previous orders or within the framework of a permanent supply agreement, the contracting party shall be obliged to inform us of any changes in specifications, production and manufacturing processes, composition and ingredients as well as of any change of a supplier of the contracting party prior to delivery to us.
5. Agreements on product changes in quantity or quality compared to our order require the written form.
6. The contracting party may only set off claims that are undisputed or have become res judicata; it may only assert a right of retention insofar as it is based on claims arising from the same contractual relationship.

### IV. Our performance / terms of payment

1. In order for us to be able to process invoices quickly and properly, our contractual partner is obliged to state on all invoices our order number, the quantities and quantity units, the gross, net and, if applicable, calculation weights, the article designations with article number and, in the case of partial deliveries, the remaining quantity; without this information, we shall not be responsible for delays in the processing and settlement of the invoice.
2. A cash discount is agreed. Unless otherwise agreed, this shall amount to 3% for payment within 30 days of defect-free, complete delivery of the goods and receipt of the invoice. Time delays due to incorrect or incomplete invoicing shall suspend the running of the discount period.
3. Our contractual partner's claim for damages caused by delay shall be limited to the damage typically foreseeable for us or to the concrete damage announced before the occurrence of the delay, unless our delay is due to gross negligence or intent. A claim for damages in lieu of performance to which our contractual partner is entitled in the event of our default in payment shall be limited to the order value, unless our default is due to gross negligence or intent.
4. We shall be entitled to rights of set-off and retention to the extent provided by law. In the event of assignment of a monetary claim to a third party, we shall remain entitled to make payment to our contractual partner.

### V. Packing

1. The return of packaging requires special agreement. If the return of packaging material is agreed, it shall be at the risk and expense of our contractual partner.
2. Our contractual partner must take back or dispose of non-recyclable packaging material at our request and at his own expense. If he does not comply with this obligation despite the setting of a deadline, he shall reimburse us for the expenses and damages incurred by us as a result.

### VI. Delivery and delay in delivery

1. The delivery time given in our order is binding. Delivery periods shall commence from the date of the order (date of order). Decisive for compliance with the delivery period is the receipt of the goods by us or at the place of receipt specified by us.
2. If delays are to be expected, our contractual partner must inform us of this in writing without delay.
3. In the case of freight shipments, a dispatch note must be sent to us separately on the day of dispatch.
4. Delivery bills and packing slips shall state our order number, quantity and unit of quantity, gross, net and, if applicable, calculated weight, article designation and article number and, in the case of partial deliveries, the remaining quantity.
5. In the event of a delay in delivery, we shall have a claim against our contractual partner for lump-sum compensation for the damage caused by the delay in the amount of 1.5% of the agreed purchase price per completed calendar week, but in no case more than a total of 10% of the agreed purchase price. We reserve the right to prove higher damages as well as further rights to which we are entitled by law. The contractual partner shall have the right to prove to us that no damage or significantly lower damage has been incurred as a result of the delay.

### VII. Defect rights

1. Our contractual partner undertakes to carry out a thorough outgoing inspection and to notify us of any existing concerns regarding possible defects.
2. We shall inspect the goods within a reasonable period of time for any deviations in quality and quantity. The complaint shall be deemed to have been made in good time if it is received by the supplier within five working days of receipt of the goods. In the case of hidden defects, the period shall not begin to run until the defect is discovered.
3. In the event of a defect, we shall be entitled, within the scope of subsequent performance, to demand from the contracting party, at our discretion, remedy of the defect or delivery of a new item. The place of performance for subsequent performance shall be the respective current location of the goods. If we are entitled to rescind of the contract, we may, at our discretion, limit this to the defective part of a delivery or declare it with respect to the entire delivery. We shall be entitled to the claims and rights existing under the law in full.
4. The period of limitation shall be 36 months, calculated from the transfer of risk, unless mandatory provisions to the contrary apply.
5. Insofar as we are entitled to take recourse against our contractual partner in accordance with §§ 327u, 445a, 445b 478 of the German Civil Code (BGB), the limitation period for our claims specified in §§ 437 and 445a para. 1 of the

German Civil Code (BGB) on account of the defect of a newly manufactured item sold to our customer shall commence at the earliest six months after the point in time at which we have satisfied the claims of our customer.

6. The contractual partner already now assigns to us by way of security all statutory and contractual warranty rights to which it is entitled against its upstream suppliers and subcontractors due to defective goods. We accept this assignment. This assignment by way of security shall be conditional upon our contractual partner fulfilling our warranty claims in full. Insofar as he fulfills this obligation, we shall not disclose the assignment.

7. If our contractual partner has reworked, replaced or repaired the delivered goods or parts thereof, a new warranty period of 36 months shall apply to the reworked or replaced part or the repair service from the time of the reworked delivery, the replacement or the acceptance of the repair service.

8. The provisions of this section shall not shorten longer statutory limitation periods and shall not restrict the statutory provisions on suspension and recommencement of limitation periods.

#### **VIII. Liability of our contractual partner**

1. If a claim is made against us on the basis of product liability or on the basis of other liability facts and if our contractual partner is responsible for the defect or product damage or if the cause originates from his sphere of control or organization, he shall indemnify us from the resulting liability on first demand insofar as he himself is liable in the external relationship.

2. Within the scope of its liability for cases of damage within the meaning of para. 1, our contractual partner shall also be obliged to reimburse any expenses arising from or in connection with a recall action carried out by us. We shall inform our contractual partner about the content and scope of the recall measures to be carried out - as far as possible and reasonable - and give him the opportunity to comment.

3. Our contractual partner undertakes to maintain a corresponding product liability insurance with a sum insured of 5 million euros per personal injury/property damage - lump sum - and to prove this to us.

4. Our other statutory claims and rights shall remain unaffected by the above provisions.

5. The transfer of contractual rights and obligations to third parties requires our written consent and does not affect the liability of the contractual partner.

#### **IX. Property rights and rights of third parties**

1. The contractual partner guarantees that no rights of third parties are infringed in connection with its delivery and through its contractual use by us.

2. If claims are asserted against us by a third party in this respect, our contractual partner shall be obliged to indemnify us against such claims upon first written request. Before we conclude any settlements or other agreements with the third party in this respect, we shall obtain the consent of the contractual partner.

3. The indemnification obligation relates to all expenses which we necessarily incur from or in connection with the claim by a third party or which we may reasonably assume to be necessary for proper settlement, unless the contractual partner proves that it is not responsible for the breach of duty underlying the infringement of the property right.

4. The limitation period for these claims is three years, beginning with the transfer of risk.

5. If our own industrial property rights exist for the performance owed by our contractual partner, our contractual partner shall be obliged to inform us thereof.

#### **X. Retention of title**

1. If we provide goods or parts to our contractual partner, we shall retain title thereto. Any processing or transformation by our contractual partner shall be carried out on our behalf. In the event of combination or mixing with other movable items, we shall acquire co-ownership of the new item in the ratio of the value of our provided item (purchase price plus VAT) to the other items at the time of combination or mixing.

2. Our contractual partner shall insure any tools, machines, machine parts or other equipment provided by us against fire, water and theft at his own expense and provide us with evidence of this upon request within a reasonable period of time. Already now, he assigns to us all claims for compensation arising from these insurances. We accept the assignment. After fruitless expiry of the deadline, we shall be entitled to take out appropriate insurance cover at the customer's expense.

3. Subject to any written agreements to the contrary, the contractual partner may only use the items provided for the purpose of achieving the contractually owed success. He shall carry out any necessary maintenance and repair work on them in good time and at his own expense. He shall inform us immediately of any malfunctions.

#### **XI. Secrecy**

1. All illustrations, drawings, calculations and other documents and information received from us shall be kept strictly confidential. We reserve the property rights, trademark rights and copyrights to all documents submitted with an offer or after conclusion of the contract. The recipient may not make them available to third parties without our express written consent and may only use them for the purpose of executing our order; after the order has been processed, they must be returned to us without delay and without being requested to do so, unless we have expressly waived the right to return them.

2. The obligation to maintain secrecy shall continue to apply even after the contract has been completed; it shall expire if and to the extent that the manufacturing knowledge contained in the illustrations, drawings, calculations and other documents provided has become generally known.

#### **XII. Our liability**

1. If we have to pay for a damage due to legal provisions in accordance with these terms and conditions, our liability shall be limited in case of slight negligence: Liability shall only exist in the event of breach of material contractual obligations and cardinal obligations and shall be limited to the typical damage foreseeable at the time of conclusion of the contract. This limitation shall not apply in the event of injury to life, limb or health. Insofar as the damage is covered by an insurance policy taken out by our contractual partner for the relevant claim (with the exception of sum insurance), we shall only be liable for any associated disadvantages of our contractual partner, e.g. higher insurance premiums or interest disadvantages until the settlement of the claim by the insurance company.

2. Our liability due to delay is conclusively regulated under point IV.

3. The personal liability of our legal representatives, vicarious agents and employees for damage caused by them through slight negligence is excluded.

#### **XIII. Application of the heristo Code of Conduct for Suppliers**

1. Our contractual partner undertakes to apply the heristo Code of Conduct for Suppliers [www.heristo.de](http://www.heristo.de) as amended from time to time or a code comparable thereto and to agree on compliance therewith or compliance with a comparable code also with its upstream suppliers and service providers. Upon request, our contractual partner shall provide us with evidence thereof. A violation of the aforementioned principles shall constitute a material breach of contract. If our contractual partner detects a violation of the heristo Code of Conduct for Suppliers or a comparable code in its own business area or in its supply chain, it shall inform us immediately about this and about the measures it has taken to end the violation without delay. If the violation cannot be ended immediately, our contractual partner shall draw up an action plan together with us, including deadlines, to end the violation. Furthermore, our contractual partner provides its employees with access to a suitable complaints procedure.

2. Our policy statement on human rights strategy can be found at [www.heristo.de](http://www.heristo.de).

#### **XIV. Data protection**

Our contractual partner undertakes to expressly and demonstrably inform the employees, vicarious agents and subcontractors/subcontractors used by it that we may collect and process their contact data (surname, first name, company e-mail address, company telephone number, company address) for the purpose of executing the contract (Art. 6 para. 1 b DSGVO) and our legitimate business interests (Art. 6 para. 1 f DSGVO).

#### **XV. Sanctions lists**

Our contractual partner assures that he himself or his beneficial owner is not listed on any Austrian, German, European, Chinese, Japanese or US-American or UK sanctions list (as amended from time to time). Should the supplier or its beneficial owner be listed on one of these aforementioned sanctions lists at any time during the business relationship, we shall be entitled to terminate the existing contracts with the supplier without notice or to withdraw from all contracts concluded with the supplier.

#### **XVI. Jurisdiction/Place of Performance**

The place of performance for all obligations arising from the order shall be our registered office, unless otherwise stipulated in these General Terms and Conditions of Purchase or in individual contracts. In the event of any disputes arising from the business relationship, including disputes arising from bills of exchange or checks, the place of jurisdiction shall be our registered office. We shall also be entitled to sue our contractual partner at the court having jurisdiction for its registered office or for the registered office of one of its branches.

#### **XVII. Language/Applicable Law**

1. Contract language is German. If contractual documents are available in a language other than German, only the German version of the contract shall be authoritative for the legal relationship between the parties, insofar as it exists.
2. Insofar as our terms and conditions of business do not contain any special provisions, only the law applicable to the legal relationships of domestic parties at our registered office (German law) shall apply to the exclusion of foreign law. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

#### **XVIII. Final Provision/Salvatory Clause**

1. If, in the case of a contract which both parties consider to be concluded, the parties have not in fact agreed on a point on which an agreement was to be

made, we shall be entitled, in addition to what has been agreed, to fill the gap in the contract at our reasonable discretion, taking into account the interests of both parties.

2. If individual provisions of the respective contract are or become invalid, this shall not affect the validity of the contract as a whole. If individual provisions of the respective contract are or become invalid for reasons other than those specified in §§ 305 - 310 BGB, the parties shall replace the invalid provision with a valid provision that comes as close as possible to the economic intent of the contracting parties. The same shall apply if individual provisions of the respective contract are or become invalid for reasons set out in §§ 305 - 310 BGB, but no provision is found in the law on this point.