

General Terms and Conditions of Business of Pühler-HSM GmbH + Co. KG, 88699 Frickingen ("Pühler-HSM") for Supply Agreements with Business Customers (Last Revised 01 November 2011)

1. Scope of Application of the Terms and Conditions

- 1.1. Any and all deliveries and services from Pühler-HSM, including offers, consulting services or other subsidiary services, will be carried out on the basis of the following General Terms and Conditions of Business (GTC). The above provision applies as well to any and all future business relationships. Pühler-HSM does not accept the customer's terms and conditions of purchasing or other terms and conditions of business.
 - 1.2. Any regulations deviating from our Terms and Conditions of Business apply solely and exclusively if Pühler-HSM has expressly agreed in writing to their application.
- ## 2. Offer and Conclusion of Contract
- 2.1. Pühler-HSM offers are subject to change. A contract is deemed concluded if and when Pühler-HSM issues to the customer a written confirmation pursuant to a previously submitted offer (also in the form of a delivery note or invoice). In case of doubt, the content of the order confirmation is authoritative.
 - 2.2. Any documents such as pictures, drawings, weight and dimension specifications included with the offer pursuant to Subsection 2.1 are non-binding unless otherwise stated.
 - 2.3. Supplements, modifications and oral subsidiary agreements are not binding on the parties unless in writing.
 - 2.4. Pühler-HSM retains the right to modify function and design as well as the scope of the delivery during the delivery period.
 - 2.5. Cost estimates are non-binding and subject to change.
 - 2.6. Pühler-HSM retains any and all rights of title and copyrights to any and all cost estimates, drawings and other documents. Such materials may not be made accessible to third parties. Pühler-HSM covenants to make available to third parties documents designated by the customer as confidential solely with the customer's consent.
 - 2.7. The customer may not return any product to Pühler-HSM unless Pühler-HSM has expressly agreed to the return. The above provision does not apply in the event the customer cancels the contract with legal effect or requests with justification subsequent fulfillment.

3. Prices and Terms of Payment

- 3.1. Pühler-HSM bills the prices in effect at the point in time of the delivery and any applicable statutory turnover tax.
- 3.2. Pühler-HSM is entitled to modify the prices by a reasonable amount if and when cost increases or decreases, in particular, but not limited to, changes in labour costs or material prices, occur between the conclusion of the contract and the delivery. Pühler-HSM will notify the customer well in advance of the delivery of any price changes. If and when Pühler-HSM does not provide the information in good time, the prices as shown in the order confirmation will apply.
- 3.3. Prices are shown "ex works" (Incoterms 2010) Pühler-HSM.
- 3.4. In the absence of deviating agreements, the following terms and conditions of payment apply: payment within 8 days less 2% cash discount or within 30 days net. If the value of the order is greater than € 25,000.00, one-third of the purchase price is due and payable upon issue of the order confirmation, one-third upon readiness for shipping and the balance net (without any deductions) within 30 days of the invoice date, unless deviating agreements have been noted in the order confirmation. Delivery will be made against advance payment for export transactions unless payment by irrevocable and confirmed letter of credit has been agreed. Payments shall be effected in such a manner that Pühler-HSM is able to dispose freely of the amount on the due date.
- 3.5. If the customer does not properly fulfil its payment obligations or suspends payments, or if insolvency proceedings against its assets are initiated or the initiation of such proceedings is dismissed due to lack of assets, the balance of the purchase price will be due and payable immediately, even if bills of exchange with later due dates have been given. Payment shall be made without delay in this case.
- 3.6. The submission of bills of exchange is subject to the consent of Pühler-HSM and is accepted on account of payment. Credit notes for bills of exchange and cheques will be credited, less costs, as received on the day on which Pühler-HSM can dispose freely of the consideration.
- 3.7. The customer may assert rights of retention of offset solely with respect to undisputed or finally adjudicated counter-claims.

4. Deliveries, Delivery and Performance Period

- 4.1. Pühler-HSM strives at all times to deliver as quickly as possible. Delivery dates or periods are not binding unless expressly agreed. Any presumed delivery date given by Pühler-HSM is non-binding.
- 4.2. Compliance with the delivery time is subject to correct and timely delivery by Pühler-HSM's own suppliers.
- 4.3. Deliveries are carried out "ex works" (Incoterms 2010) Pühler-HSM.
- 4.4. The provisions below apply to compliance with delivery dates or periods which have been agreed as binding:
 - If and when the product is delivered on the business premises of Pühler-HSM ("ex works" Pühler-HSM), the point in time pursuant to Section 5 is authoritative.
 - If and when, pursuant to special agreement, the product is not delivered on the business premises of Pühler-HSM, the point in time at which the product leaves the Pühler-HSM works or warehouse is authoritative.
- 4.5. Incidents of force majeure entitle Pühler-HSM to postpone delivery or performance for the duration of the hindrance plus an appropriate start-up period. Any and all circumstances for which Pühler-HSM is not accountable which result in major difficulties or impossibility of delivery or performance by Pühler-HSM, in particular, but not limited to, unforeseeable operational or transport disruptions, strikes, lock-outs, official actions, etc. shall be deemed the equivalent of force majeure, regardless of whether such circumstances occur in the business of Pühler-HSM, of its suppliers or of the latter's sub-suppliers. If and when the hindrance continues for more than 3 months or the execution of the contract becomes unreasonable for other reasons, either of the parties is entitled to cancel that part of the contract which has not been fulfilled.
- 4.6. If and when Pühler-HSM is in default of delivery, the customer has a claim to default compensation in the amount of 0.2% for each full week of default, limited, however, in the aggregate to a maximum of 3% of the invoice value of the deliveries or services in default, unless the customer has suffered a lesser loss or no loss at all. More extensive damage compensation claims are excluded unless
 - the default is the consequence of intent or gross negligence on the part of Pühler-HSM or its vicarious agents, or
 - there is a culpable breach of another major contractual obligation, or
 - a commercial fixed date transaction has been agreed.
- 4.7. In respect of Subsection 4.6, the customer is entitled in case of default to cancel the contract after the expiration of a reasonable subsequent period it has set if and when the delivery has not been offered by Pühler-HSM by the expiration of the period. As a rule, a subsequent period of no less than 4 weeks shall be deemed reasonable unless only a shorter subsequent period is reasonable for the customer.
- 4.8. Any product which has been reported as ready for collection shall be collected without delay. If the product is not collected within 5 business days, Pühler-HSM is entitled, at its option and in accordance with its reasonable judgment, to send the product to the customer at the customer's expense or to store the product at the customer's expense and to bill the product as delivered. The above provision is without prejudice to Section 5 and statutory provisions regarding default of acceptance.
- 4.9. Pühler-HSM is entitled to carry out partial deliveries and partial services at any time unless the customer cannot reasonably be expected to accept partial delivery or partial service in specific cases.
- 4.10. If and when, and to the extent that, information concerning material specifications of the material which is to be processed (nature, volume, bulk weight, dimensions, etc.) is not available to Pühler-HSM, Pühler-HSM cannot conduct any technical feasibility reviews in accordance with DIN ISO 9001 or examine in any other way the product's suitability for the intended purpose. Neither the customer's own collection of material data nor its own selection of a product based on the Pühler-HSM brochures is an adequate substitute for Pühler-HSM counselling related to the concrete application situation. Consequently, Pühler-HSM does not assume any warranties or other responsibility or liability of any nature for the suitability of the selected products for the intended use in such cases. The above provision is without prejudice to the possible accountability of Pühler-HSM for the correctness of the data contained in the brochures.
- 4.11. If Pühler-HSM neither installs nor initiates operation of the ordered product, Pühler-HSM will not be accountable for any loss or damage resulting from improper handling, from failure to comply with the installation, operating, care or maintenance instructions delivered with the product or from an installation site unsuitable for the operation of the product.
- 4.12. Maintenance and service work may be carried out solely by Pühler-HSM technicians or authorised service companies; otherwise, any and all warranty claims will expire. Pühler-HSM is not liable for loss or damage resulting from third-party intervention or natural wear and tear.

5. Transfer of Risk

- The risk of damage and of loss of the product transfers to the customer as provided below:
- If and when the product is delivered on the business premises of Pühler-HSM ("ex works" Incoterms 2010), at the point in time at which Pühler-HSM notifies the customer that the product is ready for collection;
 - If and when the product is not delivered on the business premises of Pühler-HSM, at the point in time of the handover (including handover to a transporter) or, if the customer is in default of acceptance, at the point in time at which Pühler-HSM offers a handover.

6. Warranty

- 6.1. Pühler-HSM warrants that the product is free of defects. Unless otherwise expressly agreed in writing, the characteristics described in product descriptions, technical specifications and labelling authorised by Pühler-HSM shall be deemed agreed characteristics. Public statements, claims or advertising are not a component of any agreement regarding characteristics, nor do they define the contractually presumed utilisation; Section 434 (1) third sentence BGB (German Civil Code) does not apply to this extent.
- 6.2. Claims due to defects are excluded if they are not submitted in writing without delay, but no later than within 10 days after receipt of the product, indicating delivery note and invoice number and including a description of the defect to which the complaint applies. Complaints of hidden defects must be asserted immediately upon discovery; the onus of proof of the hidden nature of the defect is on the customer.
- 6.3. If and when, contrary to expectations, a Pühler-HSM product has defects, the customer is entitled to claims due to defects in accordance with applicable law and these General Terms and Conditions of Business. Customer's claims due to defects are initially limited to the right to subsequent fulfillment. Only if and when the subsequent fulfillment has failed will the customer be entitled, at its option, to reduce the purchase price or cancel the contract. The above provision is without prejudice to customer's possible damage compensation claims pursuant to Section 7.
- 6.4. Pühler-HSM will assume the expenses required for the subsequent fulfillment, in particular, but not limited to, transport, road, labour and material costs, provided that the expenses have not increased because the product has been moved to a site other than the customer's establishment, unless the move is in accordance with its proper intended use. The above provision is without prejudice to Section 439, (3) BGB.
- 6.5. Any and all claims due to defects are excluded if and when operating and maintenance instructions of Pühler-HSM have not been followed or if and when modifications have been made on the customer's own authority.

- 6.6. Claims due to defects are subject to the following limitation periods:

- Other products: 1 year for utilisation in one-shift operation; warranty period for machines used in multi-shift operation is 6 months.
 - Used machines which are no more than twelve months old: 6 months. No warranty is assumed for older used machines.
- The limitation period begins at the point in time when the machine is handed over to the forwarding agent, or upon handover to the customer in those cases in which delivery is made on the business premises of Pühler-HSM (Section 5). The above provisions are without prejudice to mandatory statutory limitation periods, in particular for, but not limited to, intentional or grossly negligent culpable actions, for personal injury, for the breach of cardinal contractual obligations, for claims pursuant to the German Product Liability Act or for claims pursuant to assumed warranties.
- 6.7. No replacement will be provided for damage caused by wear and tear, improper handling, natural wear and tear or intervention by third parties either during the warranty or the guarantee period. Servicing, setup and later adjustment work does not fall within the scope of warranty or guarantee.
 - 6.8. Pühler-HSM products may be operated throughout the entire operating period solely in weatherproof surroundings. The weather protection must be provided as part of the construction before delivery, installation and operational start-up.

7. Damages

- 7.1. Unless otherwise provided in these GTC, Pühler-HSM is liable for damages solely and exclusively in the event of willful intent and gross negligence, unless it is in breach of a major contractual obligation (cardinal obligation). In the event of merely slight negligence, Pühler-HSM is liable solely for foreseeable loss or damage typical of the contract.
- 7.2. Compensation of indirect loss or damage, subsequent damage and loss of profit is excluded.
- 7.3. The above provisions are without prejudice to liability for personal injury as well as to liability pursuant to statutory provisions, especially, but not limited to, the Product Liability Act.
- 7.4. Pühler-HSM does not assume any liability for damage or loss resulting from modifications in the products which the customer or a third party carries out after delivery without the written consent of Pühler-HSM. Moreover, Pühler-HSM is not liable for any loss or damage occurring when the products are installed on a site which is not protected from access by children and unauthorised persons and the loss or damage is caused by improper use or use contrary to the intended use of the products. The customer shall indemnify and hold harmless Pühler-HSM from and against any and all third-party liability claims.

8. Retention of Title

- 8.1. Pühler-HSM retains title of ownership to delivered products until any and all of the customer's obligations from the business relationship with Pühler-HSM have been fulfilled (reserved goods). The retention of title remains in effect in particular, but not solely, if and when separate claims of Pühler-HSM are included, balanced and accepted in a current invoice.
- 8.2. Pühler-HSM is entitled to request surrender of the reserved goods from the customer, without setting a prior period and without cancelling the contract, if and when the customer is in default of fulfilment of its obligations to Pühler-HSM. Demanding the surrender or return of the goods constitutes cancellation of the contract only if and when this is expressly stated in writing.
- 8.3. The customer is obligated to handle the reserved goods with care on behalf of Pühler-HSM, to maintain and repair them at its expense and to insure them adequately at its expense for loss and damage within the scope which can be expected of a prudent businessman. It assigns to Pühler-HSM here and now any claims from insurance policies.
- 8.4. In processing or otherwise altering the retained goods, the customer acts on behalf of Pühler-HSM, but does not obligate Pühler-HSM in any way. If and when the reserved goods are processed, mixed or joined to third-party objects, Pühler-HSM acquires co-ownership to the new products in the ratio of the invoice value. The co-ownership share shall be deemed reserved goods within the sense of Subsection 8.1. If and when the reserved goods are processed, joined, or mixed with a major object of the customer, the customer assigns here and now the ownership of the new product to Pühler-HSM. The new product shall also be deemed reserved goods within the sense of Subsection 8.1.
- 8.5. The customer may sell reserved goods within the scope of ordinary business transactions under the terms and conditions usual in business, provided it is not in default. The provision also applies to the use of reserved goods in the fulfilment of a contract for work and services. The resale is not permitted if and when the customer and its buyer have agreed to an assignment prohibition. In the event of a resale, the customer shall declare the transfer of title to be dependent on the full and complete payment of the purchase price or remuneration for the performed work or services. The customer is not entitled to pledge, assign by way of security or otherwise encumber the reserved goods.
- 8.6. The customer hereby assigns to Pühler-HSM any and all claims from any resale within the sense of Subsection 8.5 as security for the purchase price claim of Pühler-HSM. Moreover, the customer assigns any and all claims arising from damage to or loss of the reserved goods. As long as the customer fulfils its contractual obligations and the fulfilment of these obligations is not in jeopardy, the customer may collect the assigned claims itself.
- 8.7. The customer shall notify Pühler-HSM without delay of any third-party debt execution measures undertaken against the reserved goods or the claims assigned in advance and provide the documentation required for defence. The customer bears any and all costs which must be incurred in averting the third-party seizure of the reserved goods or collateral of Pühler-HSM or in new procurement of the objects to the extent that the reimbursement cannot be obtained from third parties.
- 8.8. Upon justified request of Pühler-HSM, the customer is obligated to disclose the assignment to its buyers and to provide to Pühler-HSM the information and documentation required for collection. Pühler-HSM shall be notified without delay of any seizure by third parties of the reserved goods or assigned claims.

9. Intellectual Property Rights and Copyrights

- 9.1. If and when the use of the product leads to the infringement of industrial property rights or copyrights in Germany, Pühler-HSM will, at its option, acquire the right to continued use by the customer or modify the product in a way reasonable for the customer so that there is no longer any infringement of industrial property rights (subsequent fulfilment). The customer is obligated
 - to notify Pühler-HSM without delay of possible infringements of industrial property rights or copyrights, and
 - to support Pühler-HSM in defending against the asserted claims and to enable performance of the modification actions.
- 9.2. The above provision is without prejudice to the right of Pühler-HSM to refuse subsequent fulfilment in accordance with Section 439 (2) BGB.
- 9.3. Pühler-HSM shall indemnify and hold harmless the customer from undisputed or finally adjudicated claims of the holder of the industrial property rights.
- 9.4. The abovementioned claims of the customer are subject to a limitation period of one year from the transfer of risk.
- 9.5. Pühler-HSM is not liable for the infringement of industrial property rights unless at least one industrial property right from the family of industrial property rights has been published by the European Patent Office or in one of the following countries: Germany, France, Great Britain, Austria or the USA. Furthermore, Pühler-HSM is not liable
 - if and when the infringement of the right has been caused by the customer modifying the product on its own authority or has used it in a manner which is not in conformity with the contract;
 - the infringement of the right results from customer's instructions.

10. Confidentiality

- 10.1. Any and all business or technical information (including, but not limited to, features which can be deduced from delivered products or software) shall, as long as, and to the extent that, it is not verifiably in the public domain or specified by Pühler-HSM for resale by the customer, be kept secret with regard to third parties and may be made available solely and exclusively to persons in the customer's operation who have been obligated to confidentiality; Pühler-HSM retains sole and exclusive title to any such information. Said information may not be reproduced or commercially exploited without the prior consent of Pühler-HSM. Upon request, any and all information from Pühler-HSM, including any and all copies and records which have been prepared and products which have been delivered on a loan basis, shall be returned completely and immediately to Pühler-HSM or shall, in agreement with Pühler-HSM, be destroyed.
- 10.2. Pühler-HSM retains any and all rights to the information designated in Subsection 10.1 (including copyrights and the right to apply for industrial property rights such as patents, utility models, semiconductor protection, etc.).

11. Use of Software

- 11.1. To the extent that software is included in the scope of the delivery, the customer is granted a non-exclusive right to use the delivered software, including its documentation, solely and exclusively in combination with the product. The software is provided for use on the product for which it is intended. Use of the software on more than one system is prohibited.
- 11.2. The customer may replicate, modify, translate the software or convert the object code into source code solely within the legally permissible scope (Sections 69 a et seq. UrhG, German Copyright Act). The customer covenants not to remove or, without the express prior consent of Pühler-HSM, to modify manufacturer's information, in particular, but not limited to, copyright notices.
- 11.3. Any and all other rights to the software and its documentation, including the right to copies, remain with Pühler-HSM or the software supplier. The granting of sublicences is prohibited.

12. EU VAT Identification Number

- 12.1. If the customer's registered office is located outside of Germany, it is obligated to compliance with VAT regulations of the European Union (EU). They require in particular the disclosure of the VAT identification number to Pühler-HSM even if no specific request is submitted. The customer is obligated to provide upon request to Pühler-HSM the required information regarding its character as a businessman, the utilisation and transport of the delivered product and its statistical reporting obligation. The customer is obligated to reimburse any and all expenses, in particular, but not limited to, processing fees, incurred by Pühler-HSM as a consequence of erroneous information concerning valueadded tax from the customer.

13. Venue and Place of Performance

- 13.1. Should individual clauses of these Terms and Conditions be invalid, in whole or in part, the effectiveness of the remaining clauses or of the remaining parts of the invalid clause shall not be affected. The parties will replace any ineffective regulation by an effective regulation which comes closest to the intended commercial purpose of the ineffective regulation. The above provision applies mutatis mutandis to any omission in the regulations.
- 13.2. Place of performance and payment is Frickingen.
- 13.3. Venue for any and all disputes is the jurisdiction of Pühler-HSM headquarters. Moreover, Pühler-HSM is entitled to assert its claims at the general jurisdiction for the customer.
- 13.4. All contracts are governed by German law, excluding application of the United Nations Convention on the International Sale of Goods (CISG) of 11 April 1980.