

AS OF 08 / 2023

Conditions of Purchase



1. Basis of contract

By accepting and/or executing our order the Supplier acknowledges that our Conditions of Purchase are the only controlling document for both parties. Conditions of sale or delivery and payment terms of the Supplier do not apply, even if we do not expressly object to them. Accepting the goods or paying for them does not constitute acknowledgement of the conditions of sale of the Supplier.

Only written orders and agreements are binding on us. Any ancillary agreements or other arrangements that are made orally or over the phone only become effective if they are confirmed by us in writing.

2. Correspondence

Our order numbers, commission numbers and article codes must be provided in all correspondence. Please submit invoices in duplicate. Invoices can only be settled after these rules have been complied with.

3. Delivery period

Delivery periods that have been agreed or have been specified by us must be strictly complied with. The Supplier shall promptly notify us of any anticipated delay. If the delivery date is qualified by terms such as "probably", "approximately", "about", or the like, the actual delivery must occur within one week of that date. If the delivery or service is not performed at all or only in part as of the date agreed, we are entitled to, at our discretion, demand that the Supplier perform the delivery or service and compensate the damage caused by the delay or rescind the agreement and demand damages for non-performance. The same applies to partial services with respect to the services still to be provided if even a partial service is not provided as of the date agreed.

4. Quantities

With respect to the number of items and weights, the applicable quantities or amounts are those determined by our incoming goods inspection. Surplus or short deliveries are only allowed with our consent.

5. Prices

Unless otherwise agreed, all prices include any required packaging and free delivery to the receiving locations specified by us, including unloading. The prices are fixed prices. However, if the Supplier reduces the prices originally agreed with us in general before the delivery, it shall charge the reduced price to us too.

6. Shipping

Goods are shipped at the risk of the Supplier. All shipments shall be made to the address provided.

7. Certificates

If the Supplier delivers materials and certificates of inspection, the certificates must be in our possession when the shipment arrives at the destination.

8. Notification of defects

The place of delivery and inspection within the meaning of Section 377 HGB (German Commercial Code) will be the final domestic or foreign destination of the goods. With respect to obvious and noticeable defects, a notification of defects received by the Supplier within one week of the receipt of the goods at the destination shall be deemed sufficient and timely. With respect to hidden defects, the notification shall be deemed timely if we notify the Supplier of the defect within one week of its discovery. Goods that are the subject of a complaint shall be returned at the expense and risk of the Supplier.

9. Liability for defects

The liability for defects shall be governed by the statutory provisions. The limitation of our statutory claims for defects is inadmissible.

The necessary expenses for the supplementary performance shall be borne by the supplier, including those based on the fact that the delivery item or the service rendered was taken to a place other than the place of performance. The claim also includes the costs for the removal of the defective delivery item or the defective other service and for the installation of a defect-free delivery item or a defect-free other service and for comparable cases (such as unpacking and repacking of goods). If we incur external or internal expenses as a result of the delivery of defective delivery items, for example for examinations, sorting work, repackaging or storage work or administrative activities, tests including expert costs and costs for technical acceptance, these shall be adequately compensated by the supplier. For the expenses of staff employed by us, the gross hourly wage paid by us to the employee, including all ancillary costs, shall be taken as the basis for reasonable compensation.

Claims based on material defects and defects of title shall become statute-barred three years after the passing of risk, unless a different limitation period is stipulated in the order or the law provides for a longer limitation period. In the event of rectification or subsequent delivery, the limitation period shall start anew (in the event of rectification only with regard to the rectified defect and with regard to the defect-free nature of the rectification work).

Claims based on material defects and defects of title shall become statute-barred three years after the passing of risk, unless a different limitation period is stipulated in the order or the law provides for a longer limitation period. In the event of rectification or subsequent delivery, the limitation period shall start anew (in the event of rectification only with regard to the rectified defect and with regard to the defect-free nature of the rectification work).

10. Product liability

The supplier shall indemnify us against claims arising from the producer's liability in tort and on the basis of the Product Liability Act and other national laws implementing the European Product Liability Directive, insofar as the supplier or its supplier caused the product defect giving rise to the liability. Further legal claims remain unaffected.

11. Industrial property rights of third parties

The Supplier warrants that the execution of our order does not infringe upon industrial property rights of third parties. Learning about existing industrial property rights after placing an order entitles us to cancel the order. If the Supplier is at fault, it is liable for any damage and other disadvantage incurred by us due to the infringement of the industrial property right. It shall indemnify us against claims of third parties.

12. General liability

Unless otherwise provided for in these Conditions, the Supplier's liability for damages will be governed by the statutory provisions.

13. Drawings, models

Designs and drawings, as well as models, core boxes, samples, gauges and the like that were provided by us, will remain our property and shall always be returned upon the delivery of the goods.

14. Payment terms

We will pay within 14 days of the receipt of the invoice and the goods with a 3% discount or within 30 days net cash.

Claims from deliveries made to us can only be assigned with our express consent.

15. Place of performance, venue, applicable law, miscellaneous

The place of performance for both parties for the delivery and payment is our registered office.

Venue for all disputes with businessmen, legal entities under public law, and persons who have no general jurisdiction in Germany shall exclusively lie in our registered office. However, we are entitled to also bring a suit against the Supplier at the court having jurisdiction over the area in which its registered office is located.

On the other hand, if the Supplier's registered office is located outside the European Economic Area and the European Free Trade Association, the prior two sentences shall not apply. In that case, all disputes arising under and in connection with the contracts concluded subject to the applicability of these General Terms and Conditions shall exclusively be settled in accordance with the Arbitration Rules of the German Arbitration Institute (DIS) without recourse to the ordinary courts of law. Place of arbitration is Hamburg. The language of the arbitration shall be German. The proceedings and in particular the taking of evidence shall be conducted in accordance with the rules of the DIS Arbitration Rules and the rules of the 10th Book of the Code of Civil Procedure. The arbitral tribunal shall be guided in the taking of evidence by the usual practices of proceedings in German state courts. Procedural principles of common law, such as in particular the production of documents (so-called document production), shall not apply directly or mutatis mutandis. Insofar as one party may have to reimburse the other party for legal fees in connection with the arbitration proceedings, these shall be limited to the costs billable under the German Lawyers' Fees Act (RVG).

The legal provisions of the Federal Republic of Germany shall apply in addition. If the parties agree on clauses defined in the Incoterms, the Incoterms shall apply as amended.

We store data collected in connection with the business relationship in accordance with the applicable Data Protection Law.

HEROSE GMBH

HEROSE GMBH
Armaturen und Metalle

Elly-Heuss-Knapp-Strasse 12
23843 Bad Oldesloe - Germany

Fon: +49 (0) 4531 - 509 0
Fax: +49 (0) 4531 - 509 120
herose.com/info@herose.com

Geschäftsführer
Dipl.-Jur. Dirk M. Zschalich, MBE
Dr. Jens Sillig Müller, MBA

VAT Tax: DE 118 564 125
Company registration No.:
HRB 1517 Bad Oldesloe

UniCredit Bank AG
IBAN: DE89 2003 0000 0004 0088 88
SWIFT/BIC: HYVEDEMM300

