

**HARTMANN TRESORE AG General Terms and Conditions (Terms and Conditions) (for B2B Contracts)**  
**Other than for Contracts made through the Online Shop**  
**(Revised: 11/2020)**

**Section 1. General: Scope**

1.1 These General Terms and Conditions (Terms and Conditions) govern all business relationships between us, Hartmann Tresore AG, Pamplonastrasse 2, 33106 Paderborn (Germany), phone +49 5251 1744-0, e-mail: [info@hartmann-tresore.de](mailto:info@hartmann-tresore.de), and our buyer that are not entered into through our online shop, if buyer is an entrepreneur within the meaning of section 14 of the German Civil Code (BGB), a legal entity under public law, or a public-law special fund. These Terms and Conditions will also govern any future contracts entered into between us and buyer, other than contracts concluded by buyer through our online shop, without us having to refer to these Terms and Conditions again in each individual case again. Our Terms and Conditions apply to the exclusion of all other terms. Any general terms and conditions of buyer deviating from, conflicting with, and/or additional to our Terms and Conditions do not form an integral part of the contract unless we expressly consent to their application in writing. Our Terms and Conditions apply including where we provide a service to buyer without reservation even though we are aware of conflicting or deviating general terms and conditions and conditions of buyer.

1.2 We shall promptly inform buyer of any modifications of our Terms and Conditions.

**Section 2. Conclusion of Contract; Offer Documents**

2.1 Our offers are non-binding and subject to change without notice. This applies also if we have provided buyer with catalogues, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions or records – including in electronic format – the title and copyright in which we reserve. Buyer is not entitled to disclose any of the above to third parties except with our express written consent. We reserve the right to make reasonable technical changes and other modifications.

2.2 Buyer's purchase order is deemed to be a binding offer to contract which we may accept within a period of two weeks.

2.3 The offer to contract is accepted through confirmation of order on our part, at the latest however through delivery of the goods.

2.4 Conclusion of the contract is conditional on proper and timely delivery by our own suppliers. This applies only if we have entered into a entered into a congruent covering transaction (*kongruentes Deckungsgeschäft*) and if we are not supplied by our own suppliers through no fault of our own. We shall inform buyer immediately of any unavailability of service. We shall promptly refund any payments already received by us.

**Section 3. Delivery Area; Delivery and Delivery Time; Buyer's Default in Taking Delivery**

3.1 Our goods are shipped worldwide.

3.2 Delivery dates or deadlines are binding only if we have warranted in writing that such dates or deadlines will be met. Furthermore, the fulfilment of our obligation to deliver is conditional upon buyer's timely and proper performance of buyer's obligations. We reserve the defence of non-performance of the contract.

3.3 Delivery times specified by us are calculated from conclusion of the contract. Where no or no deviating delivery time is indicated for the respective item, the delivery time is approximately three weeks. In the case of Section 4.5 of these Terms and Conditions, the delivery time is calculated from the time of payment of the purchase price including shipping costs, if any.

3.4 Insofar as we are unable to meet binding delivery dates and/or delivery periods for reasons beyond our control (unavailability of goods and/or services), we shall endeavour to notify thereof of buyer immediately, at the same time informing buyer of the expected delivery date. If the goods and/or services continue to be unavailable within the new delivery period, we are entitled to withdraw from the contract in whole or in part in which case we shall promptly refund to buyer any payment already received by us. This applies, without limitation, where goods and/or services are unavailable as a result of force majeure, strike, lockout, pandemic, etc.

3.5 We are in default (in accordance with the legal provisions) only after having received a written reminder by buyer.

3.6 We are entitled to make partial delivery insofar as this is reasonable for buyer to accept.

3.7 If buyer defaults on acceptance or culpably breaches any other duty to cooperate, we are entitled to demand compensation for any damage or loss incurred by us, including for any extra expenses. The assertion of further claims is reserved.

**Section 4. Prices; Terms of Payment**

4.1 Except as expressly agreed otherwise, our prices are net prices subject to the applicable statutory value added tax and "ex works", including packaging and excluding delivery costs.

4.2 A discount may be deducted only if a corresponding separate written agreement has been made. Invoice amounts are due without deduction within 14 days of date of invoice. Once this deadline has expired, buyer is in default of payment even without a separate reminder having been sent to buyer. While buyer is in default, or if payment has been deferred, buyer shall pay interest on the amount owed at the rate of 9 percentage points above the prevailing base rate. We reserve the right to assert claims for further loss or damage caused by the default. In the event of default of payment, we charge a lump-sum service fee in the amount of €5.00 for reminders sent. This does not apply to the initial letter of reminder.

4.3 Buyer is entitled to offset claims or exercise a right of retention only if and to the extent that buyer's claim has been finally determined by a court, or is undisputed, or where the state of the proceedings permits final judgment to be given. Counterclaims that give buyer the right to refuse buyer's performance within the meaning of section 320 of the German Civil Code (BGB) are also excluded from the prohibition of set-off. Buyer is entitled to exercise a right of retention only insofar as buyer's counterclaim is based on the same contract. If buyer defaults on payment, any deliveries still outstanding and other services under the contract will be carried out only against advance payment.

4.4 If we have agreed on partial payments or payment by instalments with buyer and if buyer defaults on more than two partial payments or instalments, the entire amount still owed by buyer on the remaining debt becomes payable immediately, unless buyer proves that buyer is not responsible for the arrears.

4.5 If buyer is domiciled abroad or if there are reasonable grounds to believe that a risk of default of payment exists on the part of buyer, we reserve the right to deliver only after we have received the purchase price plus shipping costs, if any ("Reservation of Prepayment"). We will inform buyer immediately if we make use of the Reservation of Prepayment. In that case, the delivery time is calculated from the time of payment of the purchase price and shipping costs, if any.

**Section 5. Place of Performance; Passage of Risk; Acceptance**

5.1 Unless otherwise agreed in writing, Paderborn is the place of performance for all obligations arising from the business relationship between us and buyer. If we are responsible for installation and assembly, the place of performance is the place of installation and assembly.

5.2 The risk of accidental loss and/or accidental deterioration of the goods passes to our buyer upon handing over of the goods to the person carrying out the transport. The same applies to partial deliveries or when further services (installation/assembly) are owed by us. If shipping is delayed at the request of buyer, the risk passes to buyer upon notification that the goods are ready for shipment. If and in so far as formal acceptance has to take place, the risk passes

upon acceptance. Acceptance must be effected on or before the date specified for acceptance, or alternatively following our notice of readiness.

5.3 If we provide services to buyer under a contract for work (e.g. creation of a strongroom or safe deposit lockers, manufacture of a customised safe, maintenance and repair services, anchoring of a safe), formal acceptance of our services is confirmed by buyer in text form (e.g. by e-mail) or by buyer actually starting to use the goods or services provided. Buyer undertakes to confirm acceptance of the work if the work is free from substantial defects. Buyer is not entitled to refuse acceptance in the event of defects of only a minor nature. If buyer fails to confirm acceptance although buyer is obliged to do so, we are entitled to set a deadline of ten (10) working days to buyer within which to confirm acceptance. After the deadline has passed without success, acceptance is deemed to be confirmed provided that buyer does not notify us of any substantial defects in writing with a statement of reasons.

5.4 If buyer defaults in acceptance, the risk of accidental loss or accidental deterioration of the goods passes to buyer at the point in time of buyer's default of acceptance. If a formal acceptance is required, the risk passes to buyer after a reasonable period of time has expired following receipt of the notice of completion.

**Section 6. Transport to Installation Site; Anchoring**

6.1 If we are responsible, under the contract, for transport to site of use and/or anchoring at the site of use, the following provisions of this Section 6 apply additionally.

6.2 Transport inside and outside of buildings, over steps and lawns, steep slopes, gravel, and other obstructions is performed only against separate charge and only to the extent technically feasible. The intended site of use of the goods must have been cleared by buyer and must be easily accessible. In addition, buyer shall ensure without limitation that all exterior stairs and access paths are free from leaves, snow, and ice. We are entitled to charge additional service fees for any extra clearing work incurred if the buyer has failed to clear the paths.

6.3 Buyer is not to be released from the contract if the goods cannot be transported directly to the desired place of use for reasons beyond our control or due to non-compliance with the conditions provided for in Section 6.2 herein above. If we have to make a further trip as a result, we are entitled to charge for the trip on a separate basis.

6.4 We can commit to providing transport to the site of use and/or assembly at the site of use only after we have inspected the site against charge.

6.5 If we are also responsible for anchoring the item sold, buyer shall ensure that the structural conditions at the site of use are suitable for professional and proper anchoring; including without limitation that the wall or the floor, as the case may be, is suitable for anchoring; that the item, if anchored in the wall, can sit close to the wall (any base/plinth or strip and so on must be removed); no utility lines (cabling, pipes, underfloor heating, etc.) in/on the floor and/or in/on the wall run along the anchoring point; the load-bearing capacity of the installation site is adequate for the weight of the item; and that – in case of anchoring inside a cabinet – the rear wall of the cabinet is cut out, for the purpose of anchoring, in the size of the purchased item and that the rear wall is flush with the wall and allows full opening of the door of the purchased item.

6.6 Buyer is not to be released from the contract if the item cannot be anchored directly at the desired place of use for reasons beyond our control or due to non-compliance with the conditions provided for in Section 6.5 herein above. If we have to make a further trip as a result, we are entitled to charge separately for the trip.

**Section 7. Principles of Liability for Defects; Warranties**

7.1 Details about services, dimensions, weights, restrictions on use, and maintenance requirements included in any of our specifications valid at the time of conclusion of the contract form an integral part of the contract. Such details are deemed approximations only and serve as a reference for evaluating whether the goods are defective within the meaning of the provisions herein below. We assume no liability for public statements made by third parties, including without limitation advertising messages.

7.2 Buyer is not entitled to assert claims based on defects in case of natural wear and tear such as damage or loss arising, after passing of the risk, as a result of incorrect or negligent use; use of inappropriate supplies; chemical, electrochemical, or electrical influences (unless falling within our responsibility); inappropriate and/or improper use; excessive strain; faulty construction work; incorrect assembly by buyer or any third party; unsuitable ground; or external influences not provided for under the contract. Insofar as inexpert repairs or modifications are carried out by buyer or any third party, no claims based on defects can be made for such repairs or modifications and for any consequences resulting therefrom.

7.3 Buyer's claims for damages and/or compensation for wasted expenditures are subject to the provisions in Section 10 of these Terms and Conditions and in all other respects are excluded.

7.4 Any warranty or representation, whether in terms of our enhanced responsibility or resulting from our acceptance of a specific obligation to assume liability, is deemed to have been made only if the terms "warranty" or "representation" are expressly used.

**Section 8. Liability for Defects in Purchases and Work Performance**

8.1 Unless otherwise provided in these Terms and Conditions, buyer's rights in case of defects in quality and/or title in relation to the sale of goods are governed by the legal provisions of sections 433 et seq. of the BGB. Unless otherwise provided in these Terms and Conditions, buyer's rights in case of defects in quality and/or title in relation to services under a contract for work (e.g. creation of a strongroom or safe deposit lockers, manufacture of a customised safe, maintenance and repair services, anchoring of a safe) are governed by the legal provisions of sections 631 et seq. of the BGB.

8.2 We assume no liability for defects in case of second-hand goods. This does not apply: if we have fraudulently concealed the defect; or if we have given a warranty on the properties of the goods; or to claims based on defects caused by the fact that we have through wilful intent or gross negligence breached our duties; or to buyer's compensation claims for injury to life, body, or health; or in case of material breach of duty on our part.

8.3 Buyer shall immediately subject the delivered goods to inspection for defects and shall notify us in writing: of any apparent defects within a period of seven (7) working days from delivery and/or acceptance and of any hidden defects within seven (7) working days from becoming aware of such defect; otherwise, assertion of warranty claims with regard to any defect not reported at all or not reported properly is excluded (sections 377, 381 of the German Commercial Code [HGB]). The goods are in that case deemed to have been approved. The above obligations of buyer apply mutatis mutandis where we provide services under a contract for work (see Section 5.3 or 8.1 of these Terms and Conditions).

8.4 In the event of a defect, we are entitled to make subsequent performance which, at our option, may be carried out either by rectifying the defect or by supplying a new item that is free from defects. If subsequent performance is impossible or disproportionate, we are entitled to refuse such subsequent performance. In such a case, a reasonable reduction in price is to be agreed; or, in case of a material defect and/or breach of duty, buyer is entitled to withdraw from the contract in accordance with the legal provisions. We are entitled to make the owed subsequent performance conditional on buyer's payment of the remuneration due. However,

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buyer is entitled to withhold a reasonable portion of the remuneration in an amount that is proportionate to the defect.

**8.5** Buyer shall immediately subject the delivered goods to inspection for defects and shall notify us in writing: of any apparent defects within a period of seven (7) working days from delivery and/or acceptance and of any hidden defects within seven (7) working days from becoming aware of such defect; otherwise, assertion of warranty claims with regard to any defect not reported at all or not reported properly is excluded (sections 377, 381 of the German Commercial Code [HGB]). We are entitled to recover from buyer any costs incurred by us as a result of an unjustified request for remediation of defect (including without limitation costs of examination and/or transportation); provided, however, the lack of defectiveness was not recognisable to buyer.

**8.6** Buyer's rights for defects become time-barred one (1) year from the statutory start of the limitation period. This deadline does not apply to buyer's claims for damages arising from injury to life, body, or health or from intentional or grossly negligent breach of duty by ourselves or our vicarious agents; or in cases of a right of recourse against suppliers (sections 478, 479 of the BGB); or to warranted properties; or to claims buyer may have under the German Product Liability Act (ProdHaftG); such claims expire by limitation in accordance with the legal provisions.

**8.7** If the goods are an object that, according to its customary purpose, has been used in a building and has caused the building to be defective (building material), the limitation period pursuant to the legal provisions is five (5) years from delivery (section 438 para. 1 no. 2 of the BGB). Other special legal regulations on the statute of limitations (including without limitation section 438 para. 1 no. 1, para. 3, sections 444, 445(b) of the BGB) also remain unaffected.

#### **Section 9. Liability for Defects in Rental Services**

**9.1** Unless otherwise provided in these Terms and Conditions, buyer's remedies in case of quality defects or defects in title in relation with limited-term use (rental) of our goods are governed by the legal provisions of sections 535 et seq. of the BGB. We warrant that during the term of the contract the contractually agreed condition of the rented item will be maintained and that no third-party rights exist which may prevent the contractual use of the rented item. We shall remedy any defects in quality and defects in title of the rental item within a reasonable period of time.

**9.2** If any defect in the rental item becomes apparent during the term of the rental agreement, or if action needs to be taken to protect the rental item against some unforeseen danger, or if a third party assumes a right in the rental item, buyer shall notify us thereof immediately, however not later than within three (3) working days, in writing with a description of the circumstances surrounding such defect. If buyer fails to give such notice, buyer shall indemnify us for any loss or damage incurred as a result. Insofar as we have been unable to provide relief due to failure of notice, buyer is not entitled: to assert any of the rights provided for in section 536 of the BGB (including without limitation reduction in the purchase price); to demand compensation of damages under section 536(a) para. 1 of the BGB; or to give notice of termination without first setting a reasonable deadline for relief pursuant to section 543 para. 3 sentence 1 of the BGB.

**9.3** Strict liability on the part of lessor for defects that already existed at the time of conclusion of the contract is excluded.

**9.4** Our liability in accordance with section 536(a) of the BGB for damages and reimbursement of expenses incurred by lessee is subject to the provisions of Section 10 of these Terms and Conditions.

#### **Section 10. Other Liability**

**10.1** Unless otherwise provided in these Terms and Conditions, including the provisions following herein below, our liability in case of breach of contractual and non-contractual duties is governed by the applicable legal provisions.

**10.2** Under the legal provisions on fault liability, we are liable for damages – on whatever legal grounds – in cases of intent and gross negligence. Subject to a more lenient standard of liability under legal provisions, we are liable only for the following in the event of slight negligence:

- damage or loss caused by injury to life, body, or health;
- damage or loss caused by material breach of contract (i.e. breach of an obligation the fulfilment of which is of the very essence for the proper performance of the contract and upon the fulfilment of which the contracting party has regularly relied and may regularly rely); in this case, however, our liability is limited to compensation for foreseeable damage that typically occurs. Furthermore, indirect damage and consequential damage, such as loss of profit, including if resulting from defects in the goods and/or services, is only subject to compensation to the extent such damage is typically to be expected under conditions of intended use of the goods.

**10.3** The limitations of liability under Section 10.2 of these Terms and Conditions also apply to the extent that buyer, instead of claiming damages in lieu of performance, demands reimbursement of wasted costs.

**10.4** The limitations of liability resulting from Sections 10.2 and 10.3 of these Terms and Conditions also apply in case of breach of duty by or to the advantage of persons for whose fault we are responsible under the law, such as our employees, staff, representatives, officers, and vicarious agents. The limitations of liability do not apply if we have maliciously concealed a defect; or if we have given a warranty as to the nature and condition of the service; or where remedies of buyer under the German Product Liability Act (*Produkthaftungsgesetz*) are concerned; or where claims are based on defects in the goods (see Sections 7, 8, and 9 of these Terms and Conditions).

**10.5** If we provide general technical information, give advice, or make a recommendation without being under a contractual obligation to do so, we are not obliged to pay compensation for any damage that arises due to buyer following such advice or recommendation; this is without prejudice to any responsibility that may arise from a separate contractual relationship, under tort, or under any other provision of law.

**10.6** Buyer is entitled to withdraw from or terminate the contract for breach of duty other than a defect only if we are responsible for such a breach.

#### **Section 11. Retention of Title**

**11.1** We retain title to the goods delivered (hereinafter referred to as "Retained Goods") until full payment of all our present and future claims arising from the ongoing business relationship (secured claim). Our retention of title extends to the full value of any products resulting from processing, mixing or combining of the Retained Goods, with ourselves being considered the manufacturer thereof. If, after such processing, mixing or combining of Retained Goods with goods of third parties the latter continue to have ownership rights, then we acquire co-ownership in proportion to the invoice value of the processed, mixed or combined goods. Save as provided herein, the resulting product is subject to the same provisions as the goods delivered subject to retention of title.

**11.2** Buyer shall handle Retained Goods with due care; in particular, buyer shall take out insurance at buyer's cost against fire, flooding and theft to sufficiently cover the replacement

value of the Retained Goods. If any maintenance work and servicing is necessary, buyer shall carry out such work in a timely manner and at its own expense.

**11.3** Buyer is entitled to resell Retained Goods in the ordinary course of business; provided, however, that buyer hereby assigns to us all claims that buyer may have against its customers or third parties which accrue to the buyer from the resale of the goods, up to the total invoice amount (including VAT) of our claims. We accept the above assignment. Buyer retains its right to collect such claims even after the assignment. This does not affect our own right to collect the claims ourselves. We agree, however, that we shall not collect such claims as long as buyer meets its payment obligations against us from the revenues buyer receives; buyer does not default on payment; and more specifically no petition for the institution of composition or bankruptcy proceedings has been filed against buyer, or buyer does not suspend payment. If any of the above does occur, we are entitled to demand that buyer notifies us of the claims assigned and of the identity of the relevant debtors, that buyer provides us with all details necessary for collection, that buyer hands over the relevant documents and informs the debtors and/or third parties of such assignment.

**11.4** We shall release the Retained Goods and any objects or claims substituting the Retained Goods insofar as their value exceeds the amount of the secured claims by more than 10%. We are entitled to select the objects to be released under the above provision at our own discretion.

**11.5** In the event of breach of contract on the part of buyer, in particular in the event of default in payment, we are entitled to take back possession of the Retained Goods, and buyer is obliged to surrender such Retained Goods. Our taking back possession of the Retained Goods does not constitute withdrawal from the contract on our part. We are entitled to turn to account any Retained Goods that we have taken back. The proceeds from such realisation, less appropriate realisation expenses, are set off against buyer's liabilities.

**11.6** Goods Reserved must not be pledged or transferred by way of security. Buyer shall immediately inform us in writing in the event of seizure or other intervention by third parties with respect to the Retained Goods.

#### **Section 12. Applicable Law; Jurisdiction; Miscellaneous**

**12.1** These General Terms and Conditions and all legal relationships between us and buyer are subject to the laws of the Federal Republic of Germany to the exception of the conflict of laws provisions and the UN Sales Convention (CISG). Conditions and effects of retention of title according to Section 11 of these Terms and Conditions are governed by the laws applicable in the country of location of the relevant item if the above choice of law in favour of German law is inadmissible or ineffective.

**12.2** If buyer is a merchant within the meaning of Sec. 1 para. 1 of the German Commercial Code (HGB), a legal entity under public law, or a public-law special fund, the exclusive place of jurisdiction for all disputes – including without limitation international disputes – arising directly or indirectly out of this contract, is our principal place of business at Paderborn, Germany. Notwithstanding the above we are also entitled to take legal action against buyer at buyer's general legal venue.

**12.3** Any collateral agreements, modifications, and amendments – including modifications and amendments of the present clause – require a written agreement and/or our written confirmation.

**12.4** If any of the provisions of these Terms and Conditions is ineffective, the remaining provisions remain in full force and effect.