

General Terms and Conditions of Schempp-Hirth Flugzeug Vertriebs GmbH and Schempp-Hirth-Service GmbH

I General

1. The following General Terms and Conditions apply to all present and future business relations, in particular to the conclusion of option and purchase contracts, and to orders for spare and wearing parts and accessories; they supplement any agreements made in writing. We expressly object to any terms and conditions of business and purchase of the customer – even if we are aware of them. We shall only be bound by them if we expressly agree to them in writing.
2. Our offers are subject to change. Agreements made orally by third parties in a business relationship with us require our written confirmation in order to become effective.
3. Information about our goods (technical data, dimensions, etc.) is only approximate; the characteristics in question are not guaranteed unless the guarantee is made expressly and in writing.
4. Plans and drawings within the scope of custom-made products remain our property. The customer does not acquire any rights to these plans and drawings.
5. We do not give any guarantees in the legal sense.

II Terms of delivery

1. Unless otherwise agreed in writing, the prices quoted by us are ex works or ex warehouse. Statutory value added tax (VAT) is not included in our prices; it is shown separately in the invoice. For persons within the meaning of Section 310 (1) sentence 1 of the German Civil Code (BGB) (entrepreneurs, legal entities under public law, and special funds under public law), we will apply the VAT rate applicable at the time of delivery.
2. Any rights of retention on the part of the customer based on another contractual relationship are excluded. Rights of retention of the customer that are based on the same contractual relationship are also excluded if the customer is a person within the meaning of Section 310 (1) sentence 1 BGB and the counterclaim is disputed or has not been legally established. The customer is not entitled to set off any counterclaim if this claim is disputed or has not been legally established.
3. If the customer delays payment, we are entitled to charge interest at a rate of 5% above the respective base rate; if the customer is an entrepreneur or other person within the meaning of Section 310 (1) sentence 1 BGB, the interest rate will be 8% above the base rate. We reserve the right to provide evidence of greater damage caused by the delay.
4. If the customer falls into arrears with all or part of a due payment, we are entitled to withdraw from the contract after the expiry without result of a reasonable deadline set for the customer. We are also entitled to withdraw from the contract if circumstances become known that are likely to reduce the creditworthiness of the customer. If we withdraw, we are entitled, at the customer's expense, to mark the goods delivered by us, remove them if necessary, store them separately, and/or have them collected. The customer hereby declares that they consent to the persons commissioned by us to collect the goods entering the premises where the goods are located – either on foot or by vehicle – for this purpose.
5. As an alternative to our rights to withdraw from the contract in accordance with point 4 above, we may demand security from the customer.

III Reservation of title

1. Goods delivered by us remain our property until all claims arising from the specific order have been fulfilled. In dealings with entrepreneurs and other persons within the meaning of Section 310 (1) sentence 1 BGB, we reserve title until all claims against the customer to which we are entitled for any legal reason whatsoever under the business relationship have been satisfied.
2. The customer undertakes to sell goods subject to reservation of title ('reserved goods') only in the ordinary course of business, under their normal terms and conditions of business, and so long as they are not in arrears with payment. They are only entitled to resell reserved goods on condition that the claim from the resale is transferred to us in accordance with the following points 3. - 5. The customer is not entitled to dispose of reserved goods in any other way.
3. The customer hereby assigns to us their claim/s arising from the resale of reserved goods, irrespective of whether the reserved goods are sold to one or more customers. The customer is entitled to collect the assigned claim/s from the resale until our revocation, which is possible at any time. Under no circumstances is the customer entitled to assign the claim/s further.
4. At our request, the customer is obliged to promptly inform their buyer of the assignment to us – unless we inform the buyer ourselves – and to provide us with evidence that they have done so, together with the information and documents necessary for the collection of the assigned claim/s.
5. At the customer's request, we are obliged to release any securities held to the extent that their realisable value exceeds our claim/s by more than 20%. We reserve the right to select the securities to be released.
6. The customer is obliged to notify us without undue delay of any seizure or other impairment by third parties. If the customer does not meet a payment deadline or violates other contractual agreements or if we become aware of circumstances that are likely to reduce the creditworthiness of the buyer, we are entitled to prohibit the resale of reserved goods, to demand their return or the granting of indirect possession to us at the customer's expense or,

if the goods have already been resold but have not yet been paid for in full or in part, to demand payment directly from the customer's buyer.

IV Delivery time

1. Our delivery times are always approximate and non-binding. Differing agreements regarding a binding delivery time must be made expressly and in writing. If we are unable to deliver on time in that case, we will inform the customer as soon as possible.
2. If we fall behind with the delivery for reasons for which we are responsible and the customer has set us a reasonable period of grace without result, the customer may withdraw from the contract. Claims for damages by the customer due to breach of duty are excluded unless we or our agents have acted with gross negligence or intent.
3. Unforeseen events for which we are not responsible (such as energy shortages, delays in the delivery of essential components and other materials, import difficulties, operational and traffic disruptions, strikes, lockouts, and force majeure) will have the effect of extending the delivery time by a reasonable period. If we are still unable to deliver after a reasonable extension, both we and the customer are entitled to withdraw from the contract. Claims for damages by the customer are excluded. If we withdraw, we will reimburse the customer without undue delay for all payments already made.

V Shipping and transfer of risk for the purchase of spare and wearing parts/accessories

1. Shipping of spare and wearing parts/accessories ex works or ex distribution warehouse is at the expense of the customer. The route and shipping method will be determined by us. We are only obliged to take out transport insurance if expressly instructed to do so in writing by the customer; the cost of this insurance will be borne by the customer.
2. Shipping is carried out to the best of our knowledge and to the exclusion of any liability of our own. In particular, we are not responsible for any changes in or deterioration of the goods during transport or due to improper warehousing.
3. Risk passes to the customer as soon as the goods have left our works or distribution warehouse, even if we take on further services such as carriage paid shipping, delivery, or similar. If we have notified the customer that the goods are ready for shipping or collection, the risk will pass to the customer if they fail to call off or collect the goods and we have set them a reasonable deadline to do so without result. The above provisions do not apply if the customer is a consumer.
4. Obviously damaged goods deliveries must be rejected by the customer, or their condition documented with the transport company for possible damage settlement.

VI Handover and transfer of risk for the purchase of aircraft

1. For the sale of aircraft, the handover and transfer of risk are governed exclusively by the agreement contained in section VII.
2. The aircraft will be handed over to the customer at Kребenstrasse 25 in Kirchheim/Teck. Risk passes to the customer at the time of handover.
3. If the customer wishes the goods to be handed over to an authorised representative or to be transported to a place specified by the customer, Schempp-Hirth Flugzeug-Vertriebs GmbH shall be granted the right to determine the route and mode of transport. We are only obliged to take out transport insurance if expressly instructed to do so in writing by the customer; the cost of this insurance will be borne by the customer.
4. Transportation is carried out to the best of our knowledge and to the exclusion of any liability of our own. In particular, we are not responsible for any changes in or deterioration of the goods during transport or due to improper storage.
5. Risk passes to the customer as soon as the aircraft leaves Kребenstrasse 25 in Kirchheim/Teck, even if we take on further services such as carriage paid shipping, delivery, or similar. If we have notified the customer that the aircraft is ready for transportation or collection, the risk will pass to the customer if they fail to call off or collect the aircraft and we have set them a reasonable deadline to do so without result.

VII Breach of duty due to defects

1. The customer must inspect the goods within two weeks of receipt or handover. We must be notified in writing of any recognisable defects within the two months following receipt or handover of the goods; for the sale of aircraft, a period of three months from handover applies. If this does not happen, the goods are deemed to have been approved. For consumers, this regulation only applies to the extent that obvious defects are involved. This provision does not constitute a limitation period for the customer's rights in respect of defects.
2. Our liability extends to ensuring that the goods are free from defects in accordance with the state of the art.
3. If we have claims against our suppliers, we will be liable by assigning these claims to the customer, who hereby accepts this assignment for this case. A claim by the customer for reimbursement of costs incurred in the course of enforcing claims against a supplier will be excluded in all cases unless any cost-triggering measures, including but not limited to the initiation of legal proceedings, have been agreed with us in advance.
4. If a claim against the supplier cannot be considered or if the supplier refuses to be liable to the customer, our liability shall be limited to supplementary performance, i.e. replacement delivery or rectification at our discretion. The customer must return the defective goods or the replaced parts to us.
5. None of the above limitations of liability apply to the sale of consumer goods.
6. Our liability for defects is two years from delivery of the goods; if the customer is an entrepreneur or other person within the meaning of Section 310 (1) sentence 1 BGB, the limitation period is one year. The limitation period for claims for damages due to defects, irrespective of the legal grounds, is one year from delivery of the goods.

7. Further claims of the customer other than those mentioned above, irrespective of the legal grounds, are excluded. We are therefore not liable for damage that has not occurred to the goods themselves, nor for other financial losses of the customer. The above exemption from liability does not apply to cases of loss of life, bodily injury, damage to health or violation of liberty, nor does it apply to other damage if the cause of damage is based on intent or gross negligence. Finally, the exemption from liability does not apply if damage is caused by the absence of a characteristic that we have guaranteed. The exclusion of further liability for claims for damages does not apply to claims pursuant to Sections 1 and 4 of the German Product Liability Act (ProdHaftG).
8. We are not liable for damage of any kind or origin caused by the customer themselves or by third parties due to improper or defective maintenance/repairs or servicing. Improper or defective maintenance/repairs or servicing shall be deemed to have occurred in particular – but not exclusively – if the instructions as described in the maintenance and repair manual are not followed or not followed to a sufficient extent.
9. In the cases mentioned in point 8, any liability or warranty on our part for whatever reason and whatever type of culpability is excluded.
10. We offer no guarantee and accept no responsibility for damage in the following cases in particular: Unsuitable or improper use, faulty assembly or commissioning by the customer or third parties, natural wear and tear, faulty or negligent handling, improper maintenance or excessive stress. However, this exclusion does not apply if we are demonstrably responsible for the damage.

VIII Right of withdrawal (cancellation, return delivery) for spare and wearing parts/accessories

1. If the customer is a consumer, they can withdraw within 14 days of receipt of the goods by sending a written declaration of cancellation without stating a reason, thereby withdrawing from the purchase contract that had been concluded. For the withdrawal to be effective, it is sufficient for the unequivocal declaration (e.g. by letter sent by post, fax, or email) to be made within this period. In this case, the customer is demonstrably obliged to return the goods without delay.
The return shipping costs (postage) must be borne by the customer. If the goods have been used and/or damaged, the customer must pay us a reasonable fee for the use, including reasonable compensation for the damage incurred, up to a maximum of the value of the goods. The declaration of cancellation should be sent to the following address: Schempp-Hirth Service GmbH, Kребenstrasse 25, 73230 Kirchheim unter Teck, Germany or by email to: shop@schempp-hirth.com or spareparts@schempp-hirth.com
2. The right of withdrawal or cancellation does not apply to:
 - a. Items if their seal or packaging has been opened
 - b. Goods that are manufactured according to the buyer's specifications or are clearly tailored to personal needs
 - c. Spare parts specially ordered for the customer
 - d. Instruments and any parts that have already been installed by the customer or as soon as such instruments or parts have been used or put into operation
 - e. Software if its seal has been broken or it could be downloaded online
 - f. Special orders of the customer that are not available in our range of stock, meaning exchange and return of these items is expressly excluded

IX Obligations of the customer when purchasing aircraft

1. If a type certificate within the meaning of Part 21 A.21 has been issued for the aircraft, the customer undertakes to apply for an aircraft registration without delay; the costs of issuing and obtaining the aircraft registration will be borne by the customer.
2. The customer is responsible for compliance with and implementation of all airworthiness directives (ADs), technical notifications, and statutory provisions. We are under no obligation to provide information in this respect. No obligation to provide information arises on our part even if we provide such information to the customer as a free courtesy.
3. If a type certificate has not yet been issued by EASA, the aircraft will be handed over to the customer with a permit to fly issued by EASA, the costs of which will be borne by us. We undertake to carry out at our expense any structural modifications required for the issuing of the type certificate to aircraft that have already been sold. However, this obligation does not include measures purely for model maintenance.

X Prices

1. Changes in the prices stated in the purchase contract are permissible if there are more than four months between the conclusion of the contract and the agreed delivery date and we change the list price after the conclusion of the contract. In this case, we may adjust the purchase price to reflect the change. The same applies to a change in the statutory VAT rate.
2. In the event of delivery within four months, the price agreed in the purchase contract will apply in all cases.
3. If the customer is a legal entity under public law, a special fund under public law, or a merchant for whom the contract constitutes part of the operation of their commercial business, the above price change rule shall also apply if there are less than four months between the conclusion of the contract and the agreed delivery date or delivery.

XI Payment

1. Payment must be made upon acceptance of the goods, and without a discount or other reductions.
2. No offsetting is permitted with claims other than those that are undisputed or have been legally established.
3. The customer may only assert a right of retention if it is based on claims arising from this contract; the commercial right of retention in accordance with Section 369 of the German Commercial Code (HGB) cannot be asserted.

4. In the event of delayed payment, interest will be charged at a rate of 5% above the respective base rate; if the customer is an entrepreneur or other person within the meaning of Section 310 (1) sentence 1 BGB, the interest rate will be 8% above the base rate. We reserve the right to provide evidence of greater damage caused by the delay.

XII Data privacy

1. The customer's personal data is collected and stored by us in accordance with the German Federal Data Protection Act (BDSG) and the German Telecommunications Telemedia Data Protection Act (TTDSG) for fast and error-free IT processing for the purpose of handling the order, processing the delivery of goods, checking creditworthiness, handling payment, as well as for internal market research and our own marketing purposes and to inform the customer about orders, products, services and offers.
The customer expressly agrees to this point by agreeing to the General Terms and Conditions.
2. By agreeing to the General Terms and Conditions, the customer expressly agrees to receive information material from us in writing or as an electronic newsletter for promotional purposes. The customer may revoke this consent in writing at any time by sending a brief informal message.
3. Notifications, information, possible complaints, and enquiries regarding data disclosure, or the up-to-dateness, correction, or deletion of personal data must be submitted in writing (together with proof of identity) to: Schempp-Hirth Service GmbH, Kребenstrasse 25, 73230 Kirchheim unter Teck, Germany, or by email to: shop@schempp-hirth.com. In accordance with Art. 15 (1) GDPR, the first data disclosure about your current data per calendar year is free of charge and a flat rate of €10.00 (incl. VAT) will be charged for each additional data disclosure about your current data per calendar year, provided that we have not additionally incurred any higher actual costs in the course of the data disclosure.

XIII Changes in customer details

The customer must inform us promptly of any changes to their delivery/invoice/contact address and to their personal data, as provided when placing their order (for example in the event of a change of name) for as long as the legal transaction forming the subject matter of the contract remains unfulfilled by both parties. If the customer fails to notify us of such changes, declarations will be deemed to have been received by the customer even if they were sent to the customer's last known address/contact details.

XIV Final provisions

1. The laws of the Federal Republic of Germany apply exclusively.
2. If the customer is a merchant, a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes arising from this contract is Kirchheim/Teck. The same applies if the customer does not have a general place of jurisdiction in Germany or if the customer's place of residence or habitual abode is unknown at the time the action is brought. The place of performance for both parties to the contract is Kirchheim/Teck; the place of jurisdiction for both parties is Kirchheim/Teck. The place of jurisdiction, also in bill of exchange and cheque proceedings, is Kirchheim/Teck if our contractual partner is a merchant.
3. If our goods are exported by the customer to territories outside the Federal Republic of Germany, we shall not accept any liability if our products infringe the industrial property rights of third parties. The customer is obliged to make good any damage caused by the export of any of our goods that we did not expressly supply for export.
4. These Terms and Conditions exist in German and English. In the event of differing interpretations, the German version takes precedence.

XV Severability

Should individual provisions of the contract with the customer, including these General Terms and Conditions, be or become invalid in whole or in part, this shall not affect the validity of the remaining provisions. The wholly or partially ineffective provision shall be replaced by a provision whose economic effect comes as close as possible to that of the ineffective provision.

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