

1. General information

All deliveries and services as well as purchases of HKS Systemtechnik GmbH (hereinafter referred to as „HKS“) - including future purchases - shall be made exclusively on the basis of the following terms and conditions. General terms and conditions of business of the buyer, customer or supplier (hereinafter referred to as „contractual partner“) are hereby expressly contradicted. They will not be recognised even if HKS does not expressly object to them again after receipt. These terms and conditions of delivery and payment shall be deemed to have been accepted at the latest on receipt of the goods delivered or services rendered. Amendments and ancillary agreements shall only be valid if they are confirmed by HKS in writing. Any invalidity of any of these provisions shall not affect the validity of the remaining provisions. The following General Terms and Conditions of Business apply to the conclusion of purchase and work contracts, for construction contracts the regulations of VOB Part B apply as well as supplementary the General Terms and Conditions of Business. Drawings, images and other documents provided to the contracting party shall remain our exclusive property and copyright. Reproduction and forwarding to third parties without our prior written consent is prohibited and may result in claims for damages on our part. This applies accordingly to documents of the contracting party. However, these may be made accessible to third parties to whom HKS may transfer contractual obligations.

2. Prices

1. The prices stated in the offers are quoted in EURO without VAT. The value added tax is calculated according to the tax rate valid at the time of invoicing. The prices are subject to change without notice until the final order confirmation.
2. If delivery is not made within six months after confirmation of order, HKS may charge the prices valid on the day of delivery.
3. The contractual partner may only cancel orders placed within 3 days after receipt of the order confirmation. Cancellations must always be made in writing. Administrative expenses will be invoiced with a fee of EUR 50, - net. Any additional expenses or procurement of materials that may have arisen shall be charged to the contractual partner according to expenditure.

3. Deliveries

1. Deliveries are made including packaging, with the exception of projection screens, spare parts and accessories.
2. Additional costs due to special desires of the shipping method will be charged.
3. The free house prices stated in the price list are for deliveries within Germany, excluding islands, from projection screens up to a screen width of 600 cm and other standard products. For deliveries outside of Germany, as well as for all other products, freight charges will be charged. Screen surfaces, spare parts and accessories are also shipped freight collect.
4. Dispatch takes place at the risk of the contractual partner. Transfer of risk to the latter upon leaving the loading ramp of HKS. In the event of transport damage or loss of the consignment, it is recommended that the carrier/forwarder report the facts immediately. Damage, including hidden transport damage, losses or similar must be reported to the carrier/forwarder within 6 days. Complaints due to transport damage can only be forwarded by HKS if the damage is ascertained and confirmed by the carrier/forwarder when the goods are delivered. Only then is it possible to assert claims.
5. Delivery to the curbside. The contractual partner must provide sufficient auxiliary staff free of charge for transport to the final place of use
6. Force majeure, strikes and lockouts and the resulting delays in deliveries do not entitle the customer to claim damages
7. An agreed delivery period begins when the technical clarification (measurement recording, etc.) is completed. The expiry of the deadline shall be interrupted by circumstances for which the contractual partner is responsible. The same shall also apply to force majeure, industrial action and breakdowns which HKS is not responsible for through gross negligence. This also includes interruptions in production due to a lack of raw material, as long as HKS is not grossly negligent.
8. If HKS is in default with a delivery, the contractual partner must expressly state this and grant a subsequent delivery period of 4 weeks. The determination and setting of deadlines shall be made by the non-merchant in simple written form, by the merchant by registered letter. If no delivery has been made by the end of the grace period, the contractual partner may withdraw from the contract by means of a written declaration. Claims for damages or contractual penalties due to non-fulfilment or delay are excluded, unless HKS can be proven to have acted with gross negligence or willful misconduct.
9. Partial deliveries of extensive total orders can be invoiced separately if necessary.
10. Costs incurred as a result of unjustified refusal to accept or rescheduling of the contractual partner shall be reimbursed by the latter. The same shall apply in the case of total or partial delay in call-off orders.

4. Mounting

1. If assembly is carried out by HKS, the contractual partner shall ensure proper storage of the products in locked rooms.
2. The provisions of the VOB (Part B) apply to the transfer of risk.
3. Installation costs are to be understood as costs for professional preparation on the part of the customer and for fastening devices provided by the customer to take up the total load of the installation object (also dowels, suitable holding devices etc. if necessary) with horizontally stable ceilings. In the absence of any preconditions on the part of the customer, the required service will be provided by the seller in addition and invoiced separately to the contractual partner. Any additional expenditure required for drilling, tapping, thread cutting, positioning of scaffolding, suspensions and bulk-heading shall be borne by the contractual partner. Protection profiles, niches and packaging must be provided by the customer (dimensions must meet the requirements of HKS) unless they are expressly included in the quotation price. Scaffolds must be suitable for the installation purpose and comply with the regulations of the trade association. They are to be provided free of charge on site, as well as the necessary means of transport (elevator etc.).
4. For electrical systems, the installation of the supply lines and the installation and connection of switches, plug couplings and control units must be carried out by a locally approved electrician in accordance with VDE. Costs on site.
5. Concealed installations at the installation site must be notified to the assembling personnel in good time (exact marking). HKS shall not be liable for damages resulting from a failure to comply.
6. Costs incurred as a result of improper preparation of the construction work, as well as waiting times caused by delays, shall be charged to the contracting party on proof.
7. For self-assembly, the safety and installation instructions in the operating and installation instructions for the respective products must be observed.

5. Zahlung

1. Terms of payment from a net order total of EUR 15,000.00:
1/3 of the order sum at confirmation of order, 1/3 of the order sum at readiness for dispatch payable within 5 days, 1/3 of the order sum payable within 30 days - net without deduction.
The value added tax is due according to the legal regulations, also for partial payments. In the case of new customers, HKS reserves the right to refuse the first order to be settled against prepayment.

2. Payments must be made directly to HKS Systemtechnik GmbH, Borchen.
3. In the event of default of payment in transactions with non-merchants, HKS shall charge interest on arrears after a futile reminder in the amount of 5% above the current base rate of the European Central Bank; in the case of merchants, interest on arrears shall be charged at 8% above the base rate of interest.
4. In the event of a delay in payment of more than 2 weeks, HKS may demand immediate settlement of all orders due for payment. Deliveries will only be made against prepayment or other security.
5. Legal rights of the contractual partner to set-off against our claims are excluded, unless the counterclaim is either legally established or due and undisputed.
6. It is considered as agreed that the invoice recipient accepts electronic invoice dispatch in accordance with §14 UStG.

6. Warranty

1. HKS assumes the warranty for the possible faultless condition of the object of purchase.
2. Further claims, in particular compensation for direct or indirect damages are excluded, unless HKS can be proven to be grossly negligent or intentional. Defects or failures caused by force majeure, faulty installations, operating errors, overvoltage, atmospheric influences or improper assembly (including electrical installation) by third parties are excluded from all warranties. This also applies to defects and damage caused by natural wear and tear or improper handling by the contractual partner. Warranty claims do not exist in the event of insignificant deviations from the agreed quality, minor impairment of usability, natural wear and tear or damage resulting from faulty or negligent handling, excessive stress, unsuitable equipment, defective construction work, unsuitable subsoil or resulting from special external influences which are not provided for in the contract, as well as in the case of non-reproducible software. If the Purchaser or third parties carry out improper modifications or repair work, there shall also be no warranty claims for these and the resulting consequences. In the event of interventions in the goods made by the contracting party or third parties after delivery, or changes to the goods, the contracting party shall not be entitled to assert any claims for defects. If devices are installed in ceilings, enclosures, niches or similar installation locations in such a way that free installation access to the entire device is not guaranteed, a warranty claim shall only exist if access to the device is completely free. In the event of a justified complaint, the contractual partner shall be entitled to claim free subsequent performance or replacement of the defective device, in accordance with HKS's choice. For this purpose, HKS reserves the right to return the goods to the factory for subsequent performance or to carry them out on site. If subsequent performance is to be carried out on site, this is only possible if the devices are completely and unrestrictedly freely accessible. In the event of interventions in the goods made by the contracting party or third parties after delivery, or changes to the goods, the contracting party shall not be entitled to assert any claims for defects. If devices are installed in ceilings, enclosures, niches or similar installation locations in such a way that free installation access to the entire device is not guaranteed, a warranty claim shall only exist if access to the device is completely free. In the case of a consignment, only the goods will be replaced. HKS shall not be liable for any additional costs incurred for installation, auxiliary equipment or similar. HKS reserves the right to charge installation costs. HKS is not liable for consequential damage caused by the failure of the equipment. Warranty repairs do not trigger new warranty periods.
3. In the case of services arising from purchase and work contracts, complaints by contractual partners who are merchants must be notified in writing without delay and by non-merchants at the latest within 6 days after the date of receipt of the goods. The date of receipt of the goods shall be the stamp of receipt on the consignment note. If defects are not reported within the period stated above, the goods shall be deemed to have been delivered and accepted in accordance with the contract. This does not apply to hidden defects.
4. Damage in transit must be reported to the carrier immediately upon delivery (record of circumstances, see 3. point 4).
5. Deviations in colour, décor and design in the course of further technical development do not justify complaints. Samples are regarded as demonstration pieces for which customary deviations are permitted.
6. The products of HKS shall not be exchanged or taken back in the case of made-to-measure and custom-made products, also at the request of the contractual partner.
7. If the contractual partner is a merchant, he shall not be entitled to any objection of the unfulfilled contract or a right of retention with regard to the purchase price due to defects in the object of purchase, unless the claim for defects on which the right to refuse performance is based is undisputed or has been established by declaratory judgment, or HKS can be proven to be grossly negligent or intentional.
8. The contractual partner shall grant HKS the possibility of two subsequent performance. Should these fail, the contractual partner can demand a reduction in price or rescission (conversion) of the contract. In the absence of a warranted characteristic, the statutory provisions shall apply. The contracting party may not offset the purchase price against the purchase price unless its counterclaim is undisputed or has already been settled.
9. When delivering info terminals, the equipment supplied must only be opened by qualified personnel. Each device must be disconnected from the power supply before opening. The floor-mounted units must always be securely fixed to the floor. If the floor unit is not fixed to the floor, the contractual partner assumes full liability for any consequential damage. HKS does not assume any liability and warranty for damages caused by faulty fastening. In the case of delivery of hardware, hardware components and standard software from third party manufacturers, HKS is entitled to make warranty claims asserted by the contractual partner against HKS dependent on the previous claim of the suppliers of HKS, unless this is unreasonable for the contractual partner.

When purchasing computer hardware, operating systems and other software, these items are not considered to be sold as belonging together. Insofar as the systems supplied by HKS are technically exchangeable and independently functioning individual components, in particular PCs, printers or other peripheral devices, defects of the individual components do not entitle the contracting party to assert warranty claims with regard to the systems supplied. The warranty claims of the contractual partner are limited to the defective individual components in accordance with these GTC. Insofar as HKS delivers systems with commercially available standard software at the request of the contractual partner, the warranty is limited to the functionality of the respective data carrier. The branding of freeze images (image sticking-effect) on TFT screens, independent of the manufacturer, corresponds to the current state of the art and does not represent a defect. HKS accepts no liability for this.

7. Take-back and Disposal

The contractual partner undertakes to dispose of the delivered goods after their use at his own expense in accordance with the statutory regulations. The contractual partner shall indemnify HKS from the obligations pursuant to §10 para. 2 ElektroG (obligation to take back) and all related claims of third parties. The contractual partner shall obligate commercial third parties to whom it passes on the delivered goods to contractually oblige them to dispose of them properly at the end of their use at their expense in accordance with the statutory provisions and to impose a corresponding further obligation in the event of their being passed on again. If the contracting party fails to oblige third parties to whom it passes on the goods to accept the obligation to dispose of the goods and to pass them on, the contracting party itself is obliged to take back the delivered goods at its own expense after the end of their use and to dispose of them in accordance with the statutory provisions. The claims of HKS according to point 7 of these GTC do not become statute-barred until two years after the final termination of the use of the device. The two-year period of suspension of expiry shall commence at the earliest upon receipt by HKS of a written notification from the Buyer of the termination of use.

8. Retention of title

1. HKS retains title to the delivered goods until all claims, including those arising in the future within the settlement period of the respective contractual relationship, including any existing claims arising from a current account relationship, have been fulfilled. The surrender of a bill of exchange or cheque shall not be considered as payment until the paper has been honoured. The rights of HKS arising from the retention of title shall also apply until complete indemnification from contingent liabilities, in particular guarantees or bills of exchange payable, which were entered into in the interest of the contracting party in connection with a cheque/bill of exchange covering transaction.

2. The contractual partner shall be entitled to process or process the goods delivered by HKS within the scope of its proper business operations. Processing is carried out on behalf of HKS, but without any costs. HKS shall also become the owner of a new item in the event that it becomes due, as security for the claims to which it is entitled. The contractual partner is merely the custodian. However, the new items shall only serve as security for HKS's claims in the amount of the purchase price of the processed reserved goods. The latter undertakes to transfer ownership of the reserved goods or the newly created items to the contractual partner as soon as the latter has paid HKS's claims.
3. The contractual partner may resell the goods delivered by HKS only in the ordinary course of business. The following shall then apply: The contractual partner hereby assigns to the seller all claims to which he is entitled from the resale or for other legal reasons in connection with the passing on of the goods. If the goods subject to retention of title are sold together with other goods not belonging to HKS, the assignment of claims from the resale shall only apply up to the amount of the purchase price of the goods subject to retention of title at the time of delivery.
4. If the goods subject to retention of title are resold after processing, in particular after processing with other goods not belonging to HKS, the assignment shall be made in the amount of the purchase price of the goods subject to retention of title at the time of processing. If the goods subject to retention of title are used by the contractual partner for the fulfilment of a contract for work and services, the contractual partner hereby assigns the claim from this contract to HKS up to the amount of the purchase price of the goods subject to retention of title at the time of delivery. If the delivered goods are installed by HKS for the fulfilment of a contract for work and services, the assignment shall be made in the amount of the purchase price of the reserved goods (including installation costs) in the event that HKS's property is lost as a result of installation.
5. If the goods subject to retention of title or the goods owned or co-owned by HKS are not paid in cash upon sale or processing within the framework of a contract for work and services, the contractual partner shall reserve title to the goods sold to its customers on the same terms and conditions under which HKS reserves title to the goods subject to retention of title upon delivery. The assignment of the claims shall not be communicated provisionally to the purchasers. The contractual partner is authorised to collect the claims until further notice, but is not entitled to dispose of the claims in any other way (e. g. by assignment). HKS has the right to revoke this authorization at any time and to collect the claim itself. At the request of HKS, the contractual partner shall notify the customers of the assignment. He shall also be obliged, at the request of HKS, to indicate to HKS the name of the purchaser and the amount of the assigned claim and to provide HKS with all information which HKS requires in order to assert assigned claims. The retention of title in accordance with the above-mentioned agreements shall also continue to apply if HKS's claims are included in current accounts and the balance has been struck and accepted. Upon full payment of the claim of HKS from the business relationship, all assigned claims shall be transferred to the contractual partner in addition to the ownership of the objects. HKS undertakes to release the securities to which it is entitled in accordance with the above provisions insofar as their value exceeds its claims against the contractual partner by more than 25%. The release shall only be effected for securities in respect of which the underlying services and deliveries are paid for by HKS. Other dispositions, in particular pledging and transfer by way of security are not permitted without the consent of HKS. The contractual partner shall be obliged to notify HKS immediately in writing of any seizure of the goods or assigned claims by third parties or of claims asserted by third parties with regard to the goods or claims. In the case of garnishments, HKS must be sent a copy of the garnishment report. The costs arising from the assertion of HKS's rights under these terms and conditions shall be borne by the contractual partner.

9. Right of rescission

HKS shall be entitled to withdraw from the contract if, after conclusion of the contract, the financial circumstances of the contractual partner deteriorate significantly, which jeopardises the right to counterperformance, or if such a situation of the contractual partner which already existed at the time of conclusion of the contract only becomes known at a later date. Instead of withdrawing from the contract, HKS may demand immediate cash payment. Evidence of such events shall be deemed to have been furnished by the information provided by a reputable credit agency or bank.

10. Returns

The contractual partner may return goods only after prior agreement and consent of HKS. The basic prerequisite for this is that the goods are in their original condition and packaging. Return shipments shall be invoiced to the contractual partner with a handling fee of up to 20% of the net value of the goods and the total transport costs incurred.

11. Liabilities of these Terms and Conditions

These terms and conditions of business remain binding in their remaining parts even if individual provisions are legally ineffective. This does not apply if adherence to the contract would represent an unreasonable hardship for one of the parties.

12. Place of jurisdiction

Place of performance for deliveries and payments is Borchten. In dealings with a merchant, Paderborn is deemed to be agreed as the place of jurisdiction - also for documentary proceedings. German law shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

13. Privacy

For all information in connection with the handling of personal data, HKS Systemtechnik GmbH refers to the separate privacy policy, which can be viewed at www.hks-gmbh.de/en/privacy-policy/.

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