

General Conditions of Delivery hyco Vakuumtechnik GmbH

Status 08/2013

1. General

All business relations between hyco and the Customer shall be governed exclusively by the following Terms and Conditions in their version valid at the time of the order. They are also available at www.hyco.de in a storable and printable manner. The contractual language is German. The German version of the Terms and Conditions is binding. Said Terms and Conditions shall also apply to all further business relations, even if they are not expressly stipulated once again, and they are intended for the use with respect to business entities/entrepreneurs. At the latest by taking delivery of the goods or receiving the services, said Terms and Conditions shall be deemed accepted. hyco reserves the right to alter said Terms and Conditions at any time. Terms and conditions of trade of the Customer, which deviate from the present Terms, and Conditions shall not become contents of the contract, even if they are not expressly objected to by hyco, and shall only apply in case of an explicit written confirmation by hyco. Offers by hyco are made without obligation. Supplements, commitments and other agreements deviating from said Terms and Conditions, oral information, advertising statements of any kind, brochures, drawings, illustrations, measures, weights or other performance data of hyco do not constitute a warranty or a promise of guarantee of any kind. The sales staff of hyco is not authorized to come to oral supplements with the Customers or to give oral warranties going beyond the content of the written contract. Only after a confirmation of the order by hyco in writing, a contract with the Customer shall come into existence. The minimum value for an order amounts to €25.00. For orders below the minimum order value, a service charge of €5.00 will be charged. Hyco shall not be liable for errors resulting from incorrect orders. Representations by the Customer preceding a conclusion of contract shall only be considered as an offer for the conclusion of a contract.

2. Specification

When used in accordance with the instructions, the product works in accordance with the specifications specified in the documents enclosed with the product. The mentioned performance data are approximate values. They are subject to the local air pressure values and the engine speed variations and can change towards + or -. Said specifications finally stipulate the properties of the product, include the exclusive, contractually agreed upon quality for the product and shall not be considered as a guarantee for the quality of the product or as any other guarantee in the legal sense.

3. Delivery Periods, Partial Deliveries, Risk of Procurement

Statements on dates of delivery and periods of delivery have no binding force, unless, by way of exception, they are guaranteed in written form as binding. Periods of delivery only start when all design details have been completely cleared up and all technical issues have been clarified, and they require that all other necessary obligations of participation of the Customer are fulfilled. They are always understood to be exclusive of duration of transport. Hyco expressly reserves the right to a partial delivery. Hyco only guarantees for the performance of its deliveries and/or services in due time in so far as hyco receives the necessary ancillary supplies and other services in due time. The burden of proof that hyco is liable for a violation of duty in connection with the obtainment of the ancillary supplies lies with the Customer.

4. Delay in Delivery

Hyco shall be liable in accordance with the legal provisions for a delay of the performance in cases of intent or gross negligence by hyco or its representatives or employees or assistants. In cases of gross negligence, the liability of hyco is limited to the contract-typical foreseeable damage, unless one of the exceptional cases as mentioned in sentence 5 is given. In other respects, the liability of hyco on account of delay of performance shall be limited to 10 % of the value of the delivery/service in case of compensation in addition to the performance and to 15 % of the value of the delivery/service in case of compensation in lieu of the performance. Any further claims of the Customer shall be excluded, also after expiration of a deadline set by hyco for the performance. The above-mentioned limitations shall not apply in case of liability because of injuries of life, body or health.

5. Impossibility

Hyco shall be liable in accordance with the legal provisions for impossibility of performance in cases of intent or gross negligence by hyco or its representatives or employees or assistants. In cases of gross negligence, the liability of hyco shall be limited to the contract-typical foreseeable damage, unless one of the exceptional cases as mentioned in sentence 5 is given. In other respects, the liability of hyco on account of impossibility shall be limited to a compensation and a reimbursement of expenses in vain to a total of 10 % of the value of the delivery/service. Any further claims of the Customer shall be excluded on account of impossibility of performance. The above-mentioned limitations shall not apply in so far as in case of intent, gross negligence or on account of injury to life, body or health liability is mandatory. The right of the Customer to withdraw from the contract remains unaffected.

6. Rescission Right

The Customer has the right to rescind the contract within the scope of the legal provisions only when hyco is reliable for the violation of duty; in case of defects, however, the statutory prerequisites persist. In case of violations of duty, upon a request by hyco the Customer has to declare within an adequate period of time whether the Customer withdraws from the contract because of the violation of duty or whether the Customer insists on a delivery.

7. Forwarding, Transfer of Risk

All consignments travel at Customer's expense and risk. The same applies also in case of a dispatch from another place than from the place of performance. Transport insurances will only be contracted upon exclusive request by the Customer. No compensation will be made for damages or loss during transport. Customer itself has to take care of the disposal of the packing material. Should the dispatch of the deliveries be delayed on request of the Customer by more than 2 weeks from the stipulated date of delivery, or when, after notification by hyco that the goods are ready for dispatch, no exact date of delivery was agreed upon, hyco shall be entitled to charge a lump sum storage charge in the amount of 0.5 % of the price of the delivery item for each started month, but in no event more than 5 %. Hyco shall have the right to prove that a higher damage has incurred. The delivery will be "ex works"

Krailling/Germany. The risk is transferred to the Customer with the handing-over of the goods, in case of a sale by delivery with the handing-over of the goods to the forwarding agent, the carrier or another person or establishment commissioned with the performance of the dispatch.

8. Formal Acceptance

If the Customer desires a formal acceptance, the Customer has to ask for it expressly and in written form. The acceptance has always to take place at the works of hyco. If no formal acceptance is demanded, the acceptance is considered effected when the goods leave the

works of hyco. The costs involved in formal acceptances will be invoiced to the Customer. The prices apply which are valid at the day of acceptance.

9. Prices

The prices are ex works, packing and transport not included. The value added tax is not included in the prices. Our prices are based on the current production costs. Should said production costs change subsequently, the acknowledged prices will change accordingly. The increase in price will become effective with a notice in writing to the Customer. Returns of packing material will not be credited.

10. Payment, Foreign Business, Default

On the invoices of hyco the time for payment with a 2 % discount deduction and the time for payment without any discount are indicated. Foreign business is only performed upon prepayment respectively upon receipt of the invoice amount on the bank account of hyco. Repair invoices have to be paid immediately without any discount. Bills will not be accepted. A default occurs in case of failure of performance after expiration of said payment deadlines and entitles hyco to demand the statutory default interests. Hyco reserves the right to prove and claim a higher damage caused by default. The Customer shall have the right to prove that no damage or only a substantially lower damage has arisen for hyco. In case of a default of payment, all granted allowances, discounts, and other privileges shall no longer be valid. Hyco shall have the right to withhold or refuse completely or partially any further deliveries on this contract or on other contracts and shall have the right to demand immediate payment of all deliveries, payments in advance as well as compensation for damages in case of fault. All afore-mentioned rights shall be due to hyco also when circumstances become known with respect to the Customer, its partners or the enterprises of its field, due to which the credit worthiness seems to be doubtful.

11. Set-Off, Retention

The Customer may set off payments only, when its counterclaims are recognized by declaratory judgment, are uncontested or are admitted by hyco. The Customer shall be entitled to exercise a right of retention only insofar as its counterclaim is based on the same contractual relation.

12. Reservation of Title

Up to the satisfaction of all claims being due to hyco on account of any legal ground against the Customer and its affiliated companies now or in future, the following securities shall be granted to hyco which hyco will release upon request at hyco's discretion, provided the estimated value of the securities exceeds the claims by a total of more than 50 %. The goods shall remain hyco's property. A handling and processing is always carried out for hyco as the manufacturer within the meaning of Section 950 of the Civil Code, but without any obligation for hyco. When the delivered goods are attached to or processed with other objects, hyco shall obtain a joint ownership in proportion of the invoice value of the delivered goods to the other goods at the point of time of connection or processing. Section 947 II of the Civil Code does not apply. The Customer shall hold in custody the (jointly held) property of hyco free of charge. Goods of which hyco is co-owner will be referred to in the following as 'reserved goods'. The Customer shall be obliged to maintain the reserved goods in proper condition at its own costs and to insure the reserved goods against contingencies. Pledges and transfers by way of security are inadmissible. In case of pledges or other attachments by third parties to the reserved goods, the Customer shall draw attention to the property of hyco and shall inform hyco immediately. The Customer shall bear the costs and damages. The Customer shall be entitled to process and to sell the reserved goods in the proper course of business, as long as

the Customer is not in default. The Customer shall assign already now all claims arising from the resale or any other legal ground (insurance, tortious act) with respect to the reserved goods (incl. balance claims from account current) in the amount of the invoice value of the delivered goods (incl. VAT) plus 50 % to hyco. The Customer shall be entitled to collect the assigned claims by itself, as long as the Customer meets its financial obligations with respect to hyco and no petition to open insolvency proceedings or composition proceedings has been submitted. In case of lapse of said prerequisites, the Customer shall be obliged to make all statements required for the collection of debts, to hand over documents as well as to notify debtors of the assignment. In case of a behaviour of the Customer contrary to the Terms and Conditions of the contract (in particular default in payment), hyco shall be entitled to request security from the Customer or to take back reserved goods or to request assignment of claims for return against third parties and to utilize the goods at the expense of the Customer after expiration of an adequate period of time set forth in a warning. The taking back as well as the seizure of the reserved goods by hyco does not constitute a withdrawal from the contract. The Customer declares its consent that the persons entrusted by hyco with the collection of the goods may for this purpose enter its premises and may drive on the site where the goods are deposited. As a supplement it applies in case of businesses in foreign countries that hyco reserves the title in the delivered goods up to the final payment of the purchase price in accordance with the respective legal provisions of the country of destination. Said reservation of title is considered as expressly agreed upon between hyco and the Customer. As far as the country of destination allows for other security interests instead of the reservation of title, said rights are considered as expressly stipulated herewith.

13. Cancellations, Returns, Repairs

Orders for manufactures to Customer's specification can no longer be cancelled after order processing. For other cancellations, for which we are not responsible, an adequate cost contribution of at least EUR 25.00 will be charged. Delivered goods free of defects will not be taken back, except by virtue of a prior agreement in writing and by charging an administrative fee of 8 % of the value of the goods, at least EUR 25.00. Freight charges, packing costs, conversion costs, testing and processing costs etc. will be charged separately. Repairs must be sent in free of costs to the works of hyco where the goods will be checked and repaired, if necessary. By the sending in of the goods, the Customer commits himself to pay the repair costs. An estimate of costs will only be made upon a previous request.

14. Liability for Defects

The product shall be considered defect, if, at the time of transfer of risk, the product does not have the quality as contractually agreed upon in No. 2. Claims based on defects (warranty claims) do not exist in case of an only irrelevant deviation from the quality agreed upon or in case of an only irrelevant impairment of the fitness for use. The Customer shall notify hyco in writing on recognizable defects within a deadline of 10 days with effect from receipt of the goods, otherwise the goods shall be considered accepted. Defects which cannot be detected within said deadline, even in case of a careful inspection, have to be notified hyco in writing immediately after detection of said defect. When operating or service instructions of hyco will not be followed, when parts are modified, parts are exchanged or consumables are used which do not comply with the original specifications, any claims based on defects shall expire, unless the Customer refutes a corresponding substantiated assertion that one of said circumstances has caused said defect. Within the scope of the remedying of defects, hyco shall by no means be obliged to make a new delivery or a new manufacture. In the event that the subsequent performance/warranty repair is ineffective, the Customer is entitled at its option to reduce the purchase price or to withdraw from the contract. The right of the Customer to claim damages in lieu of the performance in accordance with the legal provisions and the present Terms and

Conditions remains unaffected. If the Customer wants to claim damages in lieu of the performance or wants to repair the defects by itself, a failure of the warranty repair is only given after the second unsuccessful attempt to remedy the defects. Cases in law for the dispensability of the fixing of a time limit remain unaffected. Remedying of defects can only be carried out at the works of hyco. If the Customer demands that the remedying of defects shall be carried out at a place determined by the Customer, hyco can comply with said demand, wherein replaced parts will not be charged, while working time and travelling expenses have to be paid at the standard rate of hyco. If hyco finds out that the product is free of defects, the inspection costs will be charged to the Customer.

15. Reservation of Right to Subsequent Performance

In case of the existence of defects, the Customer shall not be entitled to a right of retention, except the delivery is obviously defective or the Customer obviously has a right to reject the acceptance of the work; in this case, the Customer shall only be entitled to a right of retention as far as the amount withheld is in an adequate proportion to the defects and the expected costs of the subsequent performance (in particular remedying of the defects). The Customer shall not be entitled to assert any claims and rights on account of defects, if the Customer has not yet paid payments due and the amount due is in an adequate proportion to the value of the defective delivery.

16. Claims against Suppliers

As far as hyco is entitled to claims against suppliers, the liability of hyco is made by assignment of said claims to the Customer who accepts said assignment herewith. Claims of the Customer to reimbursement of the costs which incur in connection with the assertion of claims against a supplier shall be excluded in any case, when possible steps causing costs, in particular the institution of legal proceedings, had not been previously coordinated with hyco.

17. Limitations on Liability

Hyco shall be liable for the arisen damage according to the legal provisions only insofar as hyco or its representatives or employees or assistants are imputable of intent or gross negligence. In other respects, hyco shall only be liable according to the Product Liability Act, on account of injury of life, body or health, or on account of violation of fundamental contractual obligations. The claim for damages for the violation of fundamental contractual obligations is limited to the contract-typical foreseeable damage. The liability of the Customer is also limited to the contract-typical foreseeable damage in cases of gross negligence, if none of the exceptional cases mentioned in sentence 2 is given. The liability for damages caused by the item of delivery at Customer's objects of legal protection (indirect damages, other consequential harms caused by a defect) shall be excluded. This does not apply as far as intent or gross negligence is given or if there is liability on account of injury of life, body or health. All afore-mentioned regulations apply to compensation in addition to performance as well as to compensation in lieu of performance, regardless of the legal ground, in particular on account of defects, the violation of duties from the obligation or from a tortious act. They also apply to compensation for expenses in vain. The liability for default is determined by No. 4, the liability for impossibility by No. 5.

18. Limitation of Time

The period of limitation for claims and rights on account of defects of the delivery/service, regardless of the legal ground, shall be 1 year. The afore-mentioned period of limitation also applies to all claims for damages against hyco which are associated with the defect, independent of the legal basis of the claim, as well as to claims for damages against hyco of any kind which are not associated with a defect. In general, the period of limitation as

mentioned in sentence 1 does not apply in case of intent. The period of limitation does also not apply, if hyco has fraudulently concealed the defect. In case of a fraudulent concealment of a defect by hyco, then, instead of the period as mentioned in sentence 1, the legal period of limitation applies which would apply without existence of fraudulent intent. For claims for damages, the period of limitation does also not apply in cases of injury of life, body or health or freedom, in case of claims according to the Product Liability Act, in case of a grossly negligent violation of duty or in case of violation of fundamental contractual obligations. For all claims, the period of limitation starts with the delivery or with the acceptance thereof. Unless expressly stipulated otherwise, the legal provisions on the commencement of the limitation period, the suspension of expiration of prescription, the suspension and the recommencement of deadlines remain unaffected.

19. Place of Performance, Jurisdiction, Applicable Law, Partial Nullity, Written Form

Place of performance is Krailling/Germany. For all disputes arising directly or indirectly from the contractual relationship, legal proceedings have to be instituted in Munich, place of the head office of hyco. In case of foreign businesses, hyco shall have the right to institute possible legal proceedings also before the court having jurisdiction for the place of business of the Customer. As a matter of principle, German law shall apply in all cases, except in those countries in which German law cannot be applied by reason of foreign laws. In said cases, the valid law of the respective country shall apply. The UN Sales Convention and the Uniform Law on International Sale of Goods (EKG/EKAG) shall not apply. If one of the present provisions or a provision within the scope of any other agreements shall be or become ineffective in whole or in part, only said part shall be ineffective. The ineffectiveness of individual provisions shall not affect the validity of the remaining stipulations. Any amendment of the present Terms and Conditions must be made in writing. This also applies to an amendment of said Written Form Clause.