

**PURCHASE AND DELIVERY CONDITIONS OF THE PRIVATE LIMITED COMPANY  
HAUCK HEAT TREATMENT EINDHOVEN B.V., THE NETHERLANDS.  
(FORM F3.011.04 Rev 1 EN)**



Deposited in the Chamber of Commerce, Brabant

Article 1 General

1. When these conditions are part of offers and agreements to perform deliveries and/or services by the service provider, then all clauses of these conditions between parties apply, as far as there were no diversions from an explicit, written agreement between parties. A referral by the client to its own purchase or other conditions is explicitly refused by the service provider.
2. In these conditions, the following concepts are understood as:
  - o product: objects, including work pieces delivered by the client that are subject to the agreement, as well as services and results of the service;
  - o In writing: by means of a document signed by both parties or by a letter, fax or email message or by any manner that was technically agreed upon by the parties;
  - o the service provider, "we" or "our": the individual who refers in this tender and/or order confirmations to these conditions;
  - o the client: the individual whom this tender and/or assignment confirmation is directed to;
  - o service: agreement to do the job.

Article II Tenders; development of the agreements

1. All our offers or estimates are noncommittal, unless explicitly stated elsewhere in writing. Every tender by us is based on the assumption that we can perform the assignment under normal circumstances and during regular working hours. An agreement is only established, if and for as far as we accept an assignment from client in writing or if we execute an assignment. As the date for the development of the agreement, the day applies that our written assignment confirmation was sent, respectively the first day of factual execution of the assignment by us.
2. If we, at the request of client perform any work before a written agreement was established, we are entitled to request payment in compliance with our currently applicable rates, unless otherwise agreed upon in writing.
3. In the event of written acceptance on our part, we are no longer held to what was agreed upon in writing. Client is considered to be bound to the assignment, so far as the assignment has not been refused by us.
4. Additional and changed clauses in the assignment with regard to this tender or price estimate are binding for us at all times, unless and as far as these clauses were accepted in writing by us.
5. All estimates of numbers, measures, weights and/or other indications of the products provided by us are done with the utmost care but we cannot guarantee that there will not be any variations. Illustrated or provided samples, drawings or models and the like are only indications of the related product.

Article III Prices

1. Unless otherwise agreed upon in writing, our factory prices apply, therefore exclusive of, for example, transport and/or shipping, packaging, insurance and possible rights and or taxes levied by the government or other levies, as well all costs concerning goods made available by the client for the execution of the assignment.
2. If after the date of the finalisation of the agreement, in compliance with article II, section 1, costs of materials, tools, components, resources, wages, salaries, social charges and government charges increase, before the complete execution of the assignment, we are entitled to increase our prices accordingly.
3. Additional work is considered all that is delivered and/or supplied by the service provider in agreement, whether in writing or not, with the client during the execution of the agreement on top of the amounts explicitly determined in the assignment agreement or work that is described above which is explicitly determined in the assignment agreement or contract. In the agreement, the competence of the service provider is understood as to charge separately for additional work, as soon as they calculate the amount to the charge. For the calculation of additional work, the rules given in section 2 of this article apply. If by circumstance, situated in the nature and/or extra characteristics of the work piece or the material, repetition of the treatment and/or extra treatment is necessary to achieve the desired result for the client, then these costs for this repeated and/or extra treatment are for the client. If after the repeated treatment it appears that the desired quality cannot be achieved by the above mentioned circumstances, then the extra cost incurred by us for the first and repeated treatment have to be paid by the client.
4. If we have received this assignment to perform work, then this work is exclusively done by us on a time and expense basis, namely the post-calculated prices and labour wage to be calculated by us. The prices given by us for these activities are only considered as indicative and directive.

Article IV Packaging

Unless otherwise agreed upon in writing, the products – if necessary and up to our sole judgement – will be provided of packaging, in which the products are usually traded, taking into account what was determined in article III, section 1. Unless otherwise agreed upon in writing with the client, we will not take back the packaging.

Article V Documents, tools and advice

1. The cost estimates, plans, catalogues, images, drawings, measures and weight statement drafted by us, produced or made available by us or other documentation pertaining to offers or deliveries, as well as tools or such, models, moulds and stamps. Moulds and tools remain – even when production costs were charged to client – at all times our (intellectual) property and must be given back at our initial request.
2. Except by written permission on our part, the client ensures that the documents, tools and information provided by us in the previous section, are not copied or imitated, or are given to third parties for inspection or handed over, we are entitled to request from client that they grant cooperation to the signing of a secrecy declaration presented by us.
3. Taking into consideration what is determined in article II, section 5, all advice provided by us, advice, notifications and estimates concerning capacities, results and/or performances to be expected from the products delivered by us or activities to be performed, is binding, if and for as far as such data have been included in our written assignment confirmation, or are part of the written agreement made between us and client separately.

Article VI Manner of executing agreement

1. Products, that have been made available to us in the framework of the assignments granted to us, must be accompanied by a packing list, in which the amount of pieces must be stated, the nature and also the net weight of the products. The following must also be stated in this packing list: the metal type used (brand of the steel, name of the steel producer, norm indication, respective analysis), hardening regulations of the steel producer, desired case depth with carburized steel or at any rate the intended polishing or machined size of every surface separately (not involved with diameter), information whether carburization or nitrogen diffusion is allowed; in any case that there is mention of segmented steel as – and if this is the case – which Brinell hardness is desired (tolerance in Brinell hardness must be given) and finally which hardness is desired if it is tool steel.
2. If we have not received the above mentioned data or the data was incomplete or unclear – which is up to our judgement alone – the treatment of the products will be done to our the best of our ability and our own insight based on the data we retain.
3. If we come to the conclusion, based on the assignment and/or data we received, that we cannot meet the requirements of the client or if we are of the opinion that the treatment of the products is subject to great risks, then we will inform the client about this in a timely manner. If the client wishes to cancel the assignment because of this, then what was determined in article XV in regards to "cancellation" applies. If the client maintains his assignment with us, then we will execute the assignment to the best of our abilities without being responsible for the results of the instructed treatments.

Article VII Delivery time

1. The delivery time, including the time we need to perform the activities, starts from the day that we have received the products for treatment. If certain data, drawings, etc. are necessary for the execution of the assignment or certain formalities are required, then the delivery time will only start at an equal time later, namely at the moment that all data, drawings, etc. are in our possession or the required formalities are met. If we request a first payment when the order is made, the delivery time will start at an equal time later after the receipt of the products or receipt of the documents mentioned above and will start at the moment we have received this payment.
2. The delivery times given by us are not fatal and always noncommittal. The lapsing of delivery time is not negligent. We will do everything to acknowledge the mentioned delivery times. Apart from wilful or purposeful recklessness of associates within the company management, exceeding the delivery date does not entitle client to claim damages, to refuse the product or to completely or partially dissolve the agreement.

Article VIII Act of God

1. Under an act of God involving our party we understand: every circumstance differing from our will, hindering the fulfilment of our obligations toward the client completely or partially or because of which the fulfilment of our obligations cannot be requested of us in all reasonableness, whether those circumstances were provided at the time when the agreement was made. We will inform the client as soon as possible as to an occurrence of an act of God.
2. At any rate, all situations describing an act of God, such as war, threat of war, civil war, unrest, hostage, molestation, fire, water damage and floods, strike, occupation of the factory by workers, lack of labour force or resources, defects to machinery in this case installations, disruptions in the delivery of energy, both in our company as with third parties, of whom we have to involve the materials or resources needed completely or partially, as well with storage or during transport, whether or not in our own management, and further more by all other causes, outside our fault, discharge us from any obligation to fulfil our obligations, including

delivery time, as long as the hindrance in question remains to exist. Claims for damages due to partial or complete non-fulfilment are excluded as well in above mentioned cases.

3. If the force majeure situation has lasted six months, we have the right to partially or completely dissolve the agreement in writing. Client has in such case no right to any damages.

#### Article IX Delivery

If no specific trade condition was agreed upon, then the delivery will take place "Ex Works". If by "Ex Works" delivery, the service provider, at the request of the client, takes it upon himself to ship the product to the destination, the risk will transfer, no later than the transfer of the product to the first transporter. If the delivery takes place in parts, the batches delivered separately will apply as delivered.

#### Article X Risk

1. Unless otherwise agreed upon in writing with the client, the shipping and/or transport of the products, if executed by us, is at the expense and risk of client and we will not ensure the products against transport risks by us. Even if we have declared to the transporter, that all damage during transport is at our expense, the transport risk is nonetheless at the expense of the client and we are not obliged to claim any damages. If desired, we will transfer our rights from the transporter to the client.
2. Except when otherwise agreed upon, in writing, products which are with us for treatment, repair or inspection, are at the risk of the client. We commit ourselves to store and treat the products given to us by the client, with all the necessary caution.

#### Article XI Retention of title

1. Without prejudice pertaining to art., IX and X, the ownership of the products of service provider will transfer first to client when the total amount, owed by the client to service provider for deliveries or activities, including interests and cost, is paid completely to the service provider. Client is not entitled to transfer, to pawn or to mortgage these products or transfer them in any manner to third parties. Service provider is authorized to process and treat these products within the frame of its normal company management, in this case use them.
2. Client will enable us to immediately take back the delivered products without further notice or legal intervention. Without prejudice to other rights retained by us, we are now pre-authorized irrevocably by the client to, if this party does not fulfil his (payment) obligations toward us on time or appropriately, without any notice or legal intervention, to take back the delivered products.
3. Client has the obligation to inform us immediately of the fact that third parties (may) have rights to the products, on which our retention title lies. If the client has not met this obligation, they owe a fine of 15% of the unpaid part of the claims, on which the retention of title pertains to, without prejudice to the other rights belonging to us concerning those claims.
4. Every payment, which we receive from the client will first be used to pay those claims, that we as the service provider have toward those of which no retention of title (no longer) applies in the meaning of section I of this article.

#### Article XII Credit restriction surcharge

The invoice amount can be increased by us with a credit restriction surcharge mentioned separately in the invoice. If the invoice is paid within 30 days after invoice date, the stated surcharge does not have to be paid.

#### Article XIII Payment

1. Unless otherwise agreed upon in writing, payment of the purchase price and/or agreed price for the activities that will be performed by us is owed, at our choice, in cash at the delivery or within 14 days in compliance with what was determined in article IX. All payments will take place without deduction or settlement. If client is of the opinion that they may have claims with regard to the delivery or execution of the assignment, in any shape, then this does not discharge them from the obligation to pay in the agreed manner and they are not entitled to suspend their payment obligation.
2. If payment was agreed to be paid in instalments, then this will take place – apart from other explicit written agreements between parties – as follows:
  - o 1/3 (one third) with the assignment;
  - o 1/3 (one third) when the products to be shipped are placed ready or with the completion of the activities done by us.
  - o 1/3 (one third) must be completed within one month as soon as this is charged to client by us.
3. Payment for additional work must take place, as soon as this is charged by us to client.
4. We are entitled, if at any moment we have reasonable doubt with regard to the credit standing of client, before (continuing) with the work, to demand that complete or partial advance payment of the purchase amount takes place or that client gives fireproof surety, as by means of a bank guarantee or undisclosed pledge of the products delivered by us. In such a case, we are also entitled to deliver solely on cash on delivery.
5. If we have agreed with client that payment will take place through a banking institution of where surety is given through documentary credit or bank guarantees, client ensures that this will always take place through a first class bank. If we have any reasonable doubt of mentioned qualifications, we are entitled to reject the proposed bank and appoint another bank.
6. Only by lapse of any payment instalment, client is negligent legally. In that event, all claims from us to the client are immediately claimable, without prejudice to the others owed to us.
7. Client is, without notice, required to pay interest on the interest legally applicable in the Netherlands, increased by a surcharge of 2% on all amounts that are not paid out at the latest on the last day of the payment period. At the end of each year, the amount on which on which the interest is calculated, is increased by the interest owed over that year. As well, client owes all legal and extralegal costs toward the collection of the claim.
8. We are entitled to hold on to materials of client, that were at our disposal in relation to an assignment granted to us, and to suspend the delivery of them, until client has met all their payment obligations toward us.

#### Article XIV Dissolution

1. If there are good reasons for us to believe that the client is not capable or prepared to meet his contractual obligations toward the service provider, as well as in the event of bankruptcy, moratorium of payment, shut down, liquidation or complete or partial transfer of the company of the client, service provider is entitled to request suitable surety regarding all (claimable or not) contractual obligations of the client and in expectation of such surety, to suspend the execution of the agreement. Where there is a lack of surety within a reasonable time period set out by the service provider, the service provider is entitled to completely or partially dissolve the agreement. The service provider has these authorizations apart from his other rights based in the law, the agreement and these conditions.
2. If the client does not pay out in time or does not duly fulfil any obligation coming from the agreement made with the service provider or another related agreement, the service provider also has the right to suspend the execution of the agreement and or agreements.
3. In the event of suspension, for reasons stated in section 1 or section 2, the service provider has the authority to store the purchased, reserved, processed and fabricated resources, materials and components and other matters for the execution of the agreement, for account and risk of the client. In the event of dissolution on the grounds of section 1 or section 2, the previous sentence of corresponding application, with the understanding that the service provider may also choose to sell or destroy, rather than store, at the expense of the client. With suspension or dissolution for reasons stated in section 1 or section 2, service provider is entitled to complete compensation, but service provider cannot be held to any compensation.

#### Article XV Cancelling

1. If client wishes to cancel the order given to us, the client has the obligation, unless otherwise agreed upon in writing to buy from us the purchase materials and resources, whether they have been processed or treated or not, for the price paid by us, including wages, and to compensate us, among others, for loss of profits and payment of 15% of the agreed price, without prejudice to the other rights retained by us. In the event, we have made a currency agreement with a bank or third party in relation to the assignment; client will also be obliged to compensate the financial losses resulting from the cancellation.
2. Client is obliged to indemnify us at all times against claims by third parties resulting from cancellation of the assignment.

#### Article XVI Inspection and advertising

1. Inspection of the results of our treatments will only take place in our facility by means of a valid sampling method, unless explicitly agreed upon in writing by us with the client. In that last case, extra costs may be charged for such an inspection. Client is at all time obliged to inspect (have inspected) the products carefully immediately after delivery. If and for as far as client does not possess peripheral equipment to inspect the products, the client is entitled to request inspection equipment at a cost from us, calculated at cost price for performing the inspection. Possible complaints about deficiencies in the product, resulting from mistakes in the treatment by us, as well as differences in quantity, weight, composition, quality between the delivered product and the products delivered by the client, must be presented no later than fourteen days after the delivery of the product in writing, without prejudice to what is determined in section 3 of this article. If a sampling or inspection was performed in our factory, complaints must be made during the sampling or inspection and it must be recorded in writing.
2. Deficiencies that cannot be concluded reasonably within the above stated time period must be notified to us immediately after they were found, yet no later than the applicable guarantee period, in writing to us. Complaints in regard to invoices can only be done in writing within 14 days after the receipt of the invoices, where the date of receipt is determined one day after the date of sending the letter of the invoice in question.
3. Small deficiencies with the usual tolerances will not be grounds for complaints by the client nor demand for damages or dissolution of the agreement.
4. If complaints are not made within the time periods in this article, the client will lose any claim toward those deficiencies.

5. After discovery of any deficiencies, client must immediately stop the use, treatment, processing or installation of the products in question, and they will grant the desired cooperation to us to examine the complaints, for example by giving us the opportunity to perform an investigation into the circumstances of treatment, processing, installation and/or use.
6. Client is not entitled to complain about products if they cannot be checked for deficiencies. Client is not at liberty to return the goods before we have agreed to this in writing.

#### Article XVII Guarantee

1. Taking into account the limitations stated here after, we guarantee that the treatments performed by us are in accordance with the offered and/or agreed activities by us. The guarantee only pertains to the soundness of the execution of the activities performed by us and applies for a period of six months after the delivery in the definition of article IX. Our guarantee signifies that we – at our sole judgement only – if it turns out that post treatment or re-treatment is not possible, in the frame of our guarantee obligation, will pay out a reject compensation no larger than the (portion of) the amount invoiced by us that pertains to (the portion of) the treatment done by us of which post treatment or re-treatment is no longer possible. For loose products (objects) delivered by us, applies that we – taking into consideration the limitations here after – guarantee the soundness of the product delivered by us and the quality of the material delivered and/or used, for as far it pertains to inspection, respectively, take over sampling, non-observable deficiencies to the delivered product of which the client proves that they, within 6 months after delivery occurred, solely or predominantly as a direct result of inaccuracies in construction by us or as a result of deficient finishing or use of substandard materials. Deficiencies falling under this guarantee will be taken by us for reparation or replacement of the deficient component, whether in our company or not, or by sending a component for replacement, all at our discretion. If – only at our sole judgement – repair or replacement is not possible, a reject compensation is paid within the frame of our guarantee obligation, no larger than (the portion of) the invoiced amount by us that concerns (the portion of) the delivery of which reparation or replacement is no longer possible.
2. Our guaranty does not apply if:
  - o Client does not meet any obligation, in a timely manner or not in an adequate manner, stemming from this or any other related agreement, for example, the obligations in this agreement toward inspection, complaints as well as manner of execution of the agreement;
  - o It shows - in our judgement – that the products brought to our disposal turn out to be unsuited for the requested treatment or when the products treated by us turn out to be unsuited for the intended goal of the client;
  - o Client at their own initiative during the guarantee period, conducts of has changes and/or repairs done to the delivered products;
  - o It pertains to mistakes that are completely or partially the result of governmental guidelines concerning quality or the nature of the materials used and/or in relation to the agreed treatments;
  - o Not all instructions and other specific guarantee guidelines for use were followed carefully and completely by the client.
3. All costs resulting from the above stated and described obligations are at the expense of the client, such as, transport costs, travel expenses and costs of assembly and disassembly. If we perform activities to execute our guarantee obligation to delivered products, the products in question remain completely at risk of the client. Unless otherwise agreed in writing elsewhere, we are only held to fulfil the guarantee obligations mentioned in this article within The Netherlands.

#### Article XVIII Liability

1. Our liability is limited to fulfilling the guarantee obligations described in article XVII. Unless there is a wilful or purposeful recklessness by the associates belonging to the company management, we are never liable for any damage by the client, including consequential loss, or damage resulting from liability toward third parties. If and for as far as we, despite what is said in the first sentence of this section, are in any event, held liable by a competent judge, our liability toward the client on any account, per event in all cases is limited to the height of the contractual sum in question of the treatment done by us or loose product (objects) delivered by us.
2. Client must safeguard and indemnify us for all costs, damages and interests that are accrued toward us as a direct result of claims by third parties toward us in regard to incidents, deeds or negligence with or within the frame of the assignment executed by us.
3. Client is aware, that the objects brought to our disposal by him, which are in relation to the execution of the activities we were obligated to perform for the assignment are in our possession, are not insured by us. These objects are, among others, during internal and external transport, lading and storage, from our part and during treatment under us, for the expense and risk of the client. Client must for this purpose arrange its own suitable insurance and is held to safeguard us from claims from third parties, in the event of damage or loss of the work pieces in question, except if and for as far as there is intention or wilful recklessness by associates belonging to the company management.

#### Article XIX Applicable law, competent judge

1. Dutch law applies to all agreements made with us, of which these conditions are a complete or partial component. Parties are considered to have domiciles in the area where we are established.
2. All disputes resulting from agreements made with us or these general conditions will, for as far there are no other peremptory items from the law, are subject to the judgement of the competent judge of our residence, unless parties have agreed otherwise, explicitly, in writing.
3. The Vienna Sales Convention does not apply unless parties have agreed otherwise in writing.