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General Terms and Conditions of HAINZL Motion & Drives GmbH hereinafter referred to as „Seller“ vis-à-vis entrepreneurs

1. Scope

1.1. Unless otherwise expressly agreed, the following General Terms and Conditions shall apply to all contracts, deliveries and other services in business transactions with entrepreneurs (hereinafter „Buyer“). For the purposes of these General Terms and Conditions, an entrepreneur is a natural or legal person or a partnership with legal capacity who, when concluding a legal transaction, acts in the exercise of his commercial or independent professional activity (§ 14 BGB). Any terms and conditions of the Buyer that conflict with or deviate from these General Terms and Conditions of Business, in particular purchase conditions, are hereby expressly rejected. These shall not become part of the contract unless the Seller expressly agrees to them in writing.
1.2. These General Terms and Conditions shall apply to all contracts, framework agreements and business relationships of any kind concluded between the Seller and the Buyer, even if the Seller has not expressly referred to their inclusion in individual cases.

2. Offers and conclusion of contract

2.1. The offers contained in the Seller's catalogues and sales documents as well as on the Internet are - unless expressly designated as binding - always subject to change, i.e. only to be understood as an invitation to submit an offer. The invitation to submit an offer is directed only at buyers within Germany, within the European Union and within Liechtenstein, Norway and Switzerland.
2.2. Orders shall be deemed accepted if they are either confirmed in writing by the Seller or executed immediately after receipt of the order or on schedule. In the event of execution, the delivery note or the goods invoice shall be deemed to be the order confirmation.
2.3. The Seller's obligation to perform shall be limited exclusively to its obligations as Seller under the purchase contract. Advisory or information services are expressly not agreed as a duty of the seller, unless there is an additional special agreement with additional remuneration for the seller.
2.4. The Seller shall be entitled to issue partial or advance invoices to the Buyer up to the full value of the goods under the contract. If the buyer fails to pay the seller within a reasonable period of time (14 days) after receipt of the partial or advance invoice, the seller shall be released from its delivery obligations in terms of time and fact until payment of the partial or advance invoice. Delivery dates promised by the Seller shall be postponed accordingly. Insofar as the buyer does not perform after a repeated request by the seller for payment of the advance invoice with a reasonable deadline, the seller shall be entitled to withdraw from the contract without further preconditions. In this case, claims for damages and/or reimbursement of expenses by the buyer are excluded. Proof of receipt of the invoice shall be deemed to have been provided as agreed with the date of dispatch, with the addition of two working days.

3. Documents provided

The Seller reserves the property rights and copyrights to all documents provided to the Buyer in connection with the placing of the order, such as calculations, drawings, etc. These documents may not be made accessible to third parties unless the Seller gives the Buyer its express written consent. If a contract is not concluded, the documents must be returned to the seller without delay.

4. Delivery, transfer of risk and delay

4.1. The risk shall pass to the Buyer when the delivery leaves the Seller's premises. Unless otherwise agreed, delivery ex works is agreed: Incoterms 2020: EXW (Ex Works). In case of collection by the buyer the risk shall pass when the goods are made available at the business premises. The risk shall also pass to the buyer if delivery is made from the premises of a third party at the instigation of the seller. Loading and unloading are not subject matter of the contract.
4.2. Insofar as dispatch or delivery by the seller is agreed, this shall not change the fact that the dispatch or delivery shall be at the risk of the buyer. Such an agreement merely regulates the assumption of the costs of dispatch or delivery. If dispatch is delayed at the request or through the fault of the buyer, the goods shall be stored at the expense and risk of the buyer. The same shall apply if dispatch or delivery is delayed due to force majeure or obstacles occurring after conclusion of the contract for which the seller is not responsible. In this case, the risk shall pass to the buyer from the time of notification of readiness for dispatch or collection. The goods shall also be stored at the buyer's expense if the buyer does not collect the goods or does not collect them in due time despite the collection agreement.
4.3. Partial deliveries are permissible to a reasonable extent. In particular, they are permissible if the partial delivery is usable for the buyer within the scope of the contractual purpose and if the delivery of the remaining ordered goods is ensured.
4.4. The delivery period shall be extended appropriately - also within a delay - in the event of force majeure and all unforeseen obstacles occurring after conclusion of the contract for which the seller is not responsible (in particular also operational disruptions, strikes, lock-outs or disruption of traffic routes), insofar as these obstacles demonstrably have a considerable influence on the delivery. This shall also apply if these circumstances occur at the Seller's suppliers and their subcontractors. The Seller shall inform the Buyer of the beginning and end of such hindrances as soon as possible. The buyer may request the seller to declare whether it intends to withdraw from the contract or to deliver within a reasonable period of time. If the seller does not declare this immediately, the buyer may withdraw. Claims for damages and/or reimbursement of expenses are excluded in this case.
4.5. With regard to timely delivery, the Seller shall only be liable for its own fault and that of its vicarious agents. He shall not be liable for the fault of his subsuppliers, as they are not his vicarious agents. The Seller is, however, obliged to assign to the Buyer on request any claims it may have against its suppliers.
4.6. In the event of a delay in delivery, the Buyer shall be obliged to declare, at the Seller's request and within a reasonable period of time, whether it still insists on delivery or withdraws from the contract due to the delay and/or demands compensation for damages instead of performance. If the buyer does not declare within a reasonable period of time, the seller may assume that the buyer will withdraw from the contract due to the delay and/or claim damages instead of performance.
4.7. There is no fixed delivery period, unless expressly agreed otherwise or promised in writing.
4.8. If the seller is responsible for the non-compliance with bindingly agreed deadlines and dates, section 9 of this agreement shall apply accordingly to the compensation for delay. If this results in liability, this shall be calculated as a lump sum amounting to 3% of the delivery value for each full week of delay, but not more than 15% of the delivery value. The seller shall be entitled to prove that a lower loss has been incurred.
4.9. Delivery is only made within Germany, within the European Union and to Liechtenstein, Norway and Switzerland.

5. Packaging and transport

5.1. Packaging and transport will be charged separately.
5.2. A return of packaging material is excluded insofar as a suitable disposal company is engaged by the seller in accordance with the Packaging Ordinance in its currently valid version or, from 01.01.2019, in accordance with the Packaging Act. In this case, the Buyer shall be obliged to keep the packaging material available and to hand it over to the disposal company. Insofar as the seller agrees with the buyer that the latter waives his right of return in return for the payment of a flat-rate disposal fee, the buyer shall be obliged to hand over the used packaging to a recognised disposal company that ensures orderly disposal in accordance with the provisions of the Packaging Ordinance.
5.3. Reusable packaging shall only be made available to the buyer on loan. The buyer must notify the seller in text form of the return of the packaging unit within 14 days and make the packaging available. If this is not done, the seller shall be entitled to demand 20% of the purchase price (but not more than the full purchase price) for each week from the 3rd week onwards as a loan fee after issuing a reminder or to invoice the value of the packaging immediately, which shall be due for payment immediately after receipt.

6. Prices and payment

6.1. Prices are always exclusive of VAT and, unless otherwise specified, in euros and ex works.
6.2. Unless otherwise agreed, the purchase price is due for payment upon receipt of the goods without deduction within 30 days of the invoice date. Clause 6.11. remains unaffected.
6.3. In the event of default in payment by the Buyer, the Seller shall be entitled to claim interest from the Buyer on the outstanding purchase price obligation at a rate of nine percentage points above the base interest rate from the date of default. The right to assert a higher damage caused by default is reserved. Any agreed discounts shall not be granted in this case, even if the buyer is in default with the payment of earlier deliveries.
6.4. Refusal of payment or retention is excluded if the buyer knows of the defect or other reason for complaint at the time of conclusion of the contract.
6.5. A right of retention or right of set-off of the buyer against due claims of the seller from the total balance of the business relationship or from individual contracts shall only exist insofar as the claims of the buyer have been acknowledged, are undisputed or have been legally established. The mere silence of the seller regarding the assertion of such claims shall not be deemed to be an acknowledgement, final determination or indisputability of the buyer's claims. The above provisions shall also apply accordingly to the buyer's rights to refuse performance.
6.6. If the price base changes significantly after conclusion of the contract, the seller reserves the right to adjust the prices in accordance with the change in the price bases. In this case, the buyer is entitled to withdraw from the contract if there has been a price increase of at least 10% since the conclusion of the contract. The expenses incurred by the seller up to that point in terms of material, labor costs and external services shall be reimbursed.
6.7. The prices are for complete sales or packaging units. In the event of any changes requested by the buyer, the seller is entitled to charge a price surcharge for the corresponding additional costs.
6.8. In the event of cancellation, reduction and modification of orders by the buyer, the seller is entitled to charge the buyer for the administrative, storage

and transport costs incurred up to that point. The same applies to the procurement and production costs for special productions. Return deliveries or cancellations of ordered and delivered goods by the buyer are only possible after consultation with the seller. In this case, the seller is entitled to deduct restocking costs when crediting the goods.
6.9. The buyer is obliged to secure all deliveries and services before acceptance of the order by means of a bank guarantee, non-payment insurance or similar security.
6.10. The seller is entitled to offset payments first against older debts. If interest and costs have already accrued, each incoming payment shall first be set off against the interest and finally against the main performance.
6.11. The seller reserves the right, in particular in the case of buyers who are not yet known, to perform only against payment in advance or concurrently.
6.12. The seller is entitled to charge a reminder fee of € 5.00 plus VAT from the second reminder onwards. For the issuing fee for bills of exchange, the Seller is entitled to charge € 6.00 plus VAT. In the event of a returned bank collection, dishonored cheque (returned cheque) and for a bill recall, € 15.00 plus VAT will be charged in each case as well as the bank charges incurred.
6.13. In the case of an order value of less than € 100 net, the purchaser will be charged € 15 net as a lump sum for expenses. „Order value" means the value of the goods without shipping costs. This flat rate is shown as a separate item and is excluded from discounts.

7. Retention of title

7.1. The seller retains ownership of the goods until the purchase price has been paid in full. In the case of goods which the buyer purchases from the seller within the framework of an ongoing business relationship, the seller shall retain title until all his claims against the buyer arising from the business relationship, including future claims, including those arising from contracts concluded at the same time or later, have been settled. This shall also apply if individual or all claims of the seller have been included in a current invoice and the balance has been deducted and recognized. In the event of default of payment by the buyer, the seller shall be entitled to take back the goods after issuing a reminder and the buyer shall be obliged to surrender the goods.
7.2. If the goods subject to retention of title are processed by the buyer into a new movable item, it is agreed that the processing shall be carried out in the name and for the account of the seller as manufacturer within the meaning of § 950 BGB (German Civil Code) and that the seller shall directly acquire ownership or - if the processing is carried out from materials of several owners or the value of the processed item is higher than the value of the goods subject to retention of title - co-ownership of the newly created item in the ratio of the value of the goods subject to retention of title to the value of the newly created item at the time of processing. If no such acquisition of ownership should occur on the part of the Seller, the Buyer shall already now transfer his future ownership or - in the aforementioned ratio - co-ownership of the newly created item to the Seller as security. If the reserved goods are combined or inseparably mixed with other items to form a uniform item (§§ 947,948 BGB), the Seller shall acquire co-ownership of the newly created item in accordance with the statutory provisions. If, because of the combination or mixing, one of the other items is to be regarded as the main item, the buyer, insofar as he owns the main item, hereby assigns to the seller the co-ownership thereof in the ratio of the value of the reserved goods to the value of the newly created item at the time of the combination or mixing. In such cases, the buyer shall keep the item owned or co-owned by the seller, which shall also be deemed to be goods subject to retention of title within the meaning of the above conditions, free of charge.
7.3. If goods subject to retention of title are sold alone or together with goods not belonging to the seller, the buyer assigns already now, i.e. at the time of the conclusion of the contract, the claims arising from the resale in the amount of the value of the goods subject to retention of title with all ancillary rights and priority over the rest; the seller accepts the assignment. The value of the goods subject to retention of title shall be the invoice amount of the Seller, which, however, shall not be considered if it is opposed by third party rights. If the resold goods subject to retention of title are co-owned by the seller, the assignment of the claims shall extend to the amount corresponding to the share value of the seller in the co-ownership.
7.4. If goods subject to retention of title are installed by the buyer as an essential component in the real estate, ship, ship under construction or aircraft of a third party, the buyer hereby assigns the assignable claims for payment arising against the third party or the party concerned in the amount of the value of the goods subject to retention of title with all ancillary rights, including the right to grant a security mortgage, with priority over the rest; the seller accepts the assignment. Paragraph 7.3, sentences 2 and 3 apply accordingly.
7.5. The buyer shall only be entitled to resell, use or install the goods subject to retention of title in the ordinary course of business and only on condition that the claims within the meaning of Sections 7.3. and 7.4. are transferred to the seller. Insofar as the buyer has agreed to a prohibition of assignment with his customers with regard to this claim, the authorization to resell shall expire. The buyer is not entitled to dispose of the goods subject to retention of title in any other way, in particular by pledging or assigning them as security. The buyer is only permitted to assign genuine factoring if the seller is notified of the factoring bank and the buyer's accounts held there and the factoring proceeds are credited to the buyer's account up to the value of the seller's secured claim. With the crediting of the factoring proceeds, the seller's claim becomes due.
7.6. The Seller authorizes the Buyer, subject to revocation, to collect the claims assigned in accordance with Clauses 7.3. to 7.5. The seller shall not make use of his own right of collection if the buyer meets his payment obligations, also towards third parties. At the Seller's request, the Buyer shall immediately inform the Seller of the business addresses and private addresses of its customers to whom the goods subject to retention of title or goods into which the Seller's delivered goods have been incorporated as an essential component have been forwarded. The notification shall also include the obligation of the buyer to list the extent to which these deliveries have already been made by his customers and which claims are still outstanding in detail.
7.7. The buyer shall inform the seller immediately of any compulsory enforcement measures by third parties against the reserved goods or the assigned claims, handing over the documents necessary for the objection. The seller is entitled to demand reimbursement of the costs for judicial and extrajudicial defense against the enforcement measures from the buyer.
7.8. The right to resell, use or install the reserved goods or the authorization to collect the assigned claims shall expire upon cessation of payments and/or filing for insolvency proceedings; the authorization to collect shall also expire in the event of a cheque protest. This does not apply to the rights of the insolvency administrator.
7.9. If the value of the securities granted exceeds the claims by more than 10 percent, reduced by down payments and partial payments if applicable, the seller shall be obliged to retransfer or release them at his discretion. Upon settlement of all claims of the seller arising from the business relationship, ownership of the reserved goods and the assigned claims shall pass to the buyer.
7.10. The buyer is obliged to treat the reserved goods with care. In particular, he is obliged to sufficiently insure them at his own expense against theft, fire and water damage at replacement value. If maintenance and inspection work is to be carried out, the buyer shall carry this out in good time at its own expense.

8. Notice of defects, warranty and liability

8.1. The buyer shall immediately inspect the goods received for quantity and quality. Defects shall be notified to the seller in writing, otherwise the delivery shall be deemed to have been approved. The notice of defect shall be deemed to be late if recognizable defects are not notified in text form immediately after receipt of the goods. The notification of obvious defects is only timely if it is received by the Seller in text form within a period of 14 days, calculated from the date of delivery. Otherwise, §§ 377, 378 HGB (German Commercial Code) shall apply.
8.2. If the buyer discovers a defect, he is obliged to make the claimed item or samples thereof available to the seller for the purpose of examining the complaint and to grant a reasonable period for the examination. In the event of refusal, the warranty shall lapse. Until the inspection by the seller has been completed, the buyer may not dispose of the rejected item, i.e. it may not be divided, resold or further processed.
8.3.1. In the event of an intended installation or attachment of the goods, the Buyer shall, without prejudice to the provision in Clause 8.1, already upon receipt of the goods have the obligation to inspect the properties of the goods relevant for the installation or attachment and the subsequent intended use and to notify the Seller of any defects in text form without undue delay, insofar as an inspection of these properties is reasonable at this point in time according to the type and condition of the goods. If the notification of defects regarding the properties mentioned in sentence 1 is not made despite the inspection being reasonable, the goods shall be deemed to have been approved in this respect. In this case, the buyer shall have no warranty claims in respect of those properties.
8.3.2. If, in the event of installation or fitting of the goods, the buyer fails to check the relevant external and internal properties of the goods before installation or fitting and the subsequent intended use, he shall be guilty of gross negligence. In this case, he may only assert claims for defects regarding these properties if the defect in question is fraudulently concealed or a guarantee for the quality of the item has been assumed by the seller.
8.4. In the event of justified complaints, the Seller shall be entitled to determine the type of subsequent performance (replacement delivery, rectification), considering the type of defect and the justified interests of the Buyer.
8.5. The purchaser's claims for defects shall become statute-barred after 12 months, calculated from delivery. This shall not apply insofar as the law pursuant to § 438 para. 1 no. 2 BGB (buildings and items for buildings), § 438 para. 3 BGB (fraudulent concealment), §§ 445a/b BGB (recourse) or § 634a para. 1 no. 2 BGB (construction defects) provides for longer periods.
8.6. The seller shall not assume any warranty for the acceptance of repair orders or for modifications and conversions of used or third-party goods. When carrying out a repair or commissioning, the seller expressly assumes no warranty or liability for the functioning of the overall system in which the repaired component was or is installed, the correct dimensioning of the overall system and the use of the repaired component in the overall system.
8.7. In the case of the purchase of used goods, the buyer's warranty claims are excluded in their entirety.
8.8. Claims for defects do not exist in the case of only insignificant deviation from the agreed quality, in the case of only insignificant impairment of usability, in the case of natural wear and tear. If the goods are used other than for the contractually agreed purpose (e.g. with unsuitable operating materials, unsuitable building ground or special external influences, improper repair work or modifications), no claims for defects shall exist.
8.9. Claims of the buyer for expenses incurred for the purpose of subsequent performance, in particular transport, travel, labor and material costs, are excluded insofar as the expenses increase or arise because the goods have been taken to a place other than the buyer's branch office, unless this corresponds to their intended use.
8.10. If the buyer has installed the goods that were defective at the time of the transfer of risk in another item or attached them to another item in accordance with their type and intended use, he can only demand reimbursement of expenses from the seller for the removal of the defective goods and the installa-

tion or attachment of the reworked or delivered goods that are free of defects (so-called removal costs and installation costs) in accordance with the following provisions. The same shall apply in the event that the Buyer must bear such expenses in relation to its customer pursuant to Sections 439 (3), 445a, 475 (4) BGB.
8.11. Required in the sense of § 439 para. 3 BGB (German Civil Code) are only such removal and installation costs which concern the removal and installation or the fitting of identical products, have been incurred based on customary market conditions and are proven to the Seller by the Buyer by submitting suitable receipts at least in text form. Any right of the buyer to advance payment for removal and installation costs shall be excluded. The Buyer is also not permitted to unilaterally offset claims for reimbursement of expenses for removal and installation costs against purchase price claims or other payment claims of the Seller without the Seller's consent. Claims of the buyer exceeding the necessary removal costs and installation costs, in particular costs for consequential damage caused by defects, such as loss of profit, business interruption costs or additional costs for replacement purchases, are not removal costs and installation costs and are therefore not to be reimbursed within the scope of subsequent performance pursuant to § 439 para. 3 BGB.
8.12. Claims under a right of recourse pursuant to §§ 445a/b BGB shall only exist if the claim asserted by the Buyer's customer was justified and only to the extent stipulated by law, but not for goodwill arrangements not agreed with the Seller. Claims under a right of recourse also presuppose that the party entitled to recourse has complied with its own obligations, in particular its obligations to examine the goods and to give notice of defects.
8.13. If the expenses claimed by the buyer for subsequent performance are disproportionate within the meaning of Sections 439 (2) and (3), 445a of the German Civil Code (BGB) in the individual case, in particular in relation to the purchase price of the goods in a defect-free condition and taking into account the significance of the lack of conformity, the seller shall be entitled to refuse to reimburse the expenses. Disproportionality shall be deemed to exist in any case, if the expenses claimed within the meaning of § 439 (2) and (3) BGB exceed a value of 150% of the purchase price of the goods in a defect-free condition or 200% of the reduced value of the goods due to the defect.
8.14. In the event of unjustified notices of defects, the Buyer shall reimburse the Seller for the costs incurred by the Seller as a result, provided that the Buyer has recognized or culpably failed to recognize that there is no defect, but that the cause of the phenomenon complained of by him lies within his area of responsibility.

9. Claims for damages

Claims for damages by the buyer, irrespective of the legal grounds, in particular from impossibility, delay, defective or incorrect delivery, breach of contract, breach of duties during contract negotiations and tort, are excluded from slight negligence. This exclusion of liability shall not apply in the event of injury to life, body or health and in the event of a slightly negligent breach of essential contractual obligations. In cases of slightly negligent breach of essential contractual obligations, liability shall be limited to compensation for the typical damage foreseeable at the time of conclusion of the contract. Indirect damage or consequential damage shall only be compensable insofar as it is typically to be expected when using the goods as intended. The above exclusions and limitations of liability shall apply to the same extent in favor of the organs, legal representatives, employees and other vicarious agents of the Seller. Insofar as the Seller or its vicarious agents provide technical information or act in an advisory capacity without this being contractually owed, this shall be done free of charge and to the exclusion of any liability.

10. Jurisdiction and applicable law

10.1. The place of performance and jurisdiction for deliveries and payments as well as all disputes arising between the parties shall be the headquarters of the seller, insofar as the buyer is a merchant, a legal entity under public law or a special fund under public law. However, the seller is also entitled to sue the buyer at the buyer's registered office.
10.2. The legal assessment of the relations between the contracting parties shall be governed exclusively by the formal and substantive law applicable in the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods as well as international commercial provisions (CISG). Also excluded are mandatory provisions of German private international law which would lead to the application of foreign legal norms or foreign jurisdictions.

11. Severability clause and written form

11.1 Should individual provisions be invalid, partially invalid or unenforceable, this shall not affect the validity of the remaining provisions. In place of the ineffective, partially ineffective or unenforceable provisions, the parties agree to set a provision that comes closest to the meaning and purpose of the ineffective, partially ineffective or unenforceable provision. If the parties fail to reach such an agreement, the invalid, partially invalid or unenforceable provision shall be replaced, at the parties' option, by the legal provision that comes closest to the meaning and purpose of the invalid, partially invalid or unenforceable provision.
11.2 Amendments and supplements must be made in writing. This also applies to the waiver of this written form clause.