

## General terms and conditions of business of HakaGerodur AG

### 1 Scope of application

- 1.1 These general terms and conditions of business of HakaGerodur AG (hereinafter referred to as "HakaGerodur") apply to all deliveries made by HakaGerodur to customers, in particular to deliveries of pipes, profiled sections, fittings and accessories as well as systems, whether standard products of HakaGerodur or products specially manufactured to customer specifications.
- 1.2 They apply as soon as they have become a part of the contract with the customer. This shall be the case if the general terms and conditions of business are expressly specified to be a part of the contract, including where HakaGerodur makes reference to these general terms and conditions of business whether as enclosure to or imprint on quotations, confirmations of orders and invoices, or whether notified by links on the Internet page of HakaGerodur, where the text of these general terms and conditions of business may be viewed ([www.hakagerodur.ch](http://www.hakagerodur.ch)). These general terms and conditions of business shall, in the case of a verbal order without written confirmation of order, at least apply to future orders made by this customer if reference is made to these general terms and conditions of business in the invoice or delivery note for the first consignment.
- 1.3 Individual agreements shall take priority if they shall conflict with these general terms and conditions of business in a particular case. The general terms and conditions of business of HakaGerodur shall take priority if these general terms and conditions of business conflict with the general purchase terms of the customer.

### 2 Validity of quotations and conclusion of contracts

- 2.1 Quotations made by HakaGerodur remain valid for 30 days from the date of the quotation unless stated otherwise in the quotation.
- 2.2 The contract between HakaGerodur and the customer does not require any particular form. An individual call for delivery of products by the customer by way of a purchase order shall be binding for both parties if a framework agreement has been entered into with the customer, in which prices and conditions are specified and if this shall not provide otherwise, unless HakaGerodur shall reject the order of the customer within five working days.

### 3 Delivery dates, delivery and returned purchases

- 3.1 Delivery dates or delivery periods are binding if they have been agreed. HakaGerodur shall notify the fact to the customer as soon as possible if it shall be unable to observe the agreed dates or periods. The customer may grant HakaGerodur a reasonable extension of time. HakaGerodur undertakes to pay compensation for losses arising from the delay if HakaGerodur shall not observe this final deadline, in as far as the customer can prove to it wilfulness or gross negligence.
- 3.2 No delay shall arise and the obligation of HakaGerodur to make delivery shall be suspended for the particular period, if a delivery date cannot be observed for reasons beyond the control of HakaGerodur, such as exceptional natural events (flooding, hurricanes, land slides etc.)

conflagration, war, insurrection, revolution internal disorder, terrorism, sabotage, unavailability of raw materials and process materials (hereinafter referred to as "force majeure"). HakaGerodur shall be under an obligation to notify the customer as soon as possible in respect of the occurrence of such events and take all reasonable measures in order to restore readiness to deliver. The customer may cancel the delivery after expiry of 6 months. A claim to compensation by the customer shall not exist.

- 3.3 HakaGerodur shall have the right to extend the period for delivery or to postpone delivery dates correspondingly if the customer shall not fulfil his duty to co-operate (for example, acceptance of samples or notification of technical specifications etc.). Furthermore, HakaGerodur shall be entitled to reasonable extension of the delivery period or postponement of the delivery date if it is unable to manufacture or deliver products or systems in due time on account of force majeure or shortages of raw materials.
- 3.4 Delivery to the customer of products and systems is made ex-works HakaGerodur (that is, CH-Gossau SG or CH-Benken SG, or D-Neustadt / Sachsen) (INCOTERMS 2000).
- 3.5 HakaGerodur may make part deliveries.
- 3.6 Excessive / short consignments of +/- 5% of the agreed quantity shall be permissible.
- 3.7 HakaGerodur shall not be under an obligation to accept return of batches which the customer shall not or no longer require. Conditions shall be agreed in advance in as far as HakaGerodur by way of good will shall exceptionally accept return of products or systems delivered.

### 4 Guarantees

#### 4.1 Warrantee

- 4.1.1 HakaGerodur warrants that the products and systems supplied correspond with the product specifications agreed in writing or assured by HakaGerodur in writing.
- 4.1.2 Furthermore, HakaGerodur warrants that the products and systems supplied are free from defects in materials and manufacture. The appropriate industrial standards in respect of dimensions and tolerances apply where such are not included in the factory standards of HakaGerodur.
- 4.1.3 HakaGerodur gives no warranty for defects which are the consequence of damage to the products or systems after despatch from the factory, improper storage or incorrect processing by the customer or his purchaser. It is the duty of the customer to take all the necessary care in handling, storing and processing which may be expected of a specialist.
- 4.1.4 HakaGerodur does not accept any liability for the results of work thereby achieved if HakaGerodur makes equipment for processing the products or systems available to the customer on or without payment.

**4.2 Examination and complaints**

- 4.2.1 It is the duty of the customer to inspect the products and systems supplied after delivery in respect of identity, externally visible damage (particularly transport damage) and patent defects and to give notice of any defects within five working days of delivery at the latest.
- 4.2.2 The customer shall notify any latent defects without delay if he shall discover such at a later date.
- 4.2.3 The customer shall be under an obligation to pay the price for undisputed batches in due time if the customer shall notify defects in only one batch of the products or systems supplied.

**4.3 Liability for consequential loss**

- 4.3.1 HakaGerodur shall be under a duty to make a further delivery of a corresponding quantity of products or systems free of defect, if a product or system delivered shall prove to be defective and the customer shall have notified the defect in due time. The customer may either pay a reduced price to be agreed or cancel the contract and demand refund of any payments made against return of the defective products or systems, if HakaGerodur shall fail to make a further delivery within a reasonable period.
- 4.3.2 HakaGerodur shall be under an obligation to compensate for such loss if damage arises for the customer as a consequence of a defective product or system, in as far as the customer can prove to it wilfulness or gross negligence.
- 4.3.3 Claims by the customer in the event of a defective consignment are conclusively specified in this section.

**4.4 Guarantee period**

Claims by the customer arising from a defective consignment lapse on expiry of one year following delivery.

**5 Prices and terms of payment, communication of customer data**

- 5.1 The list prices of HakaGerodur apply unless otherwise agreed. Prices are ex-works HakaGerodur without packaging if not otherwise noted.
- 5.2 HakaGerodur may adjust the agreed prices if prices of raw materials shall alter significantly. A change in raw material prices by +/- 5% shall entitle an adjustment of prices, unless otherwise agreed in an individual case.
- 5.3 Deliveries are made against invoice. Invoices from HakaGerodur are payable net within 30 days following the date on the invoice. The customer is automatically in arrears after expiry of this period for payment, without the requirement of a reminder.
- 5.4 HakaGerodur reserves the right to make deliveries only against payment in advance, letter of credit confirmed by a Swiss bank or against other security, in the case of doubt as to solvency of the customer.
- 5.5 HakaGerodur reserves the right to communicate to credit information agencies experience with payments from customers.

**6 Reservation of ownership**

- 6.1 Products and systems delivered remain in the ownership of HakaGerodur until full payment. This applies so as to authorise taking any necessary precautions in order to allow the reservation of ownership to come into existence without further participation of the customer, particularly its entry in the corresponding register.

**7 Ownership of tools, moulds and equipment**

- 7.1 All tools and moulds which are used for manufacturing the products and systems are the property of HakaGerodur, including where their costs of production shall have been paid wholly or partially by the customer. Lending tools and moulds to the customer or a third party is barred. HakaGerodur does however undertake in the absence of agreement to the contrary, not to manufacture for a third party with tools and moulds which the customer has financed in full.
- 7.2 HakaGerodur may dispose of the tools and moulds, more particularly destroy them, if no re-ordering is made within five years.
- 7.3 Equipment for processing the products or systems shall remain the property of HakaGerodur, if HakaGerodur shall make this available to the customer. The customer shall return this properly cleaned to the factory of HakaGerodur on expiry of the agreed period of use and shall be liable for excessive wear and for all damage as well as for the costs of any subsequent cleaning.

**8 Place of performance, applicable law and place of jurisdiction**

- 8.1 The sole place of performance for all services provided in connection with a delivery by HakaGerodur is the corresponding location of the supply factory of HakaGerodur, that is, CH-Gossau SG or CH-Benken SG, or D-Neustadt / Sachsen.
- 8.2 Solely the law of Switzerland shall apply to deliveries by HakaGerodur, and the Vienna Sale of Goods Law (United Nations Treaty concerning contracts affecting international sale of goods dated 11th April 1980) shall apply to international relationships.
- 8.3 Both parties accept exclusive jurisdiction of the judge in the court of justice at St. Gallen Switzerland for all disputes arising from or in connection with deliveries by HakaGerodur.

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