



General Terms and Conditions of HAMMEL Swiss Recycling Systems AG

§ 1 General

1. All offers and agreements made by HAMMEL Swiss Recycling Systems AG (hereinafter referred to as HAMMEL) are based exclusively on the following General Terms and Conditions (GTC). They shall be deemed to have been accepted without reservation upon placement of an order, conclusion of a reservation agreement, or at the latest upon acceptance of delivery.
2. Any deviating terms and conditions of the customer shall only be binding if HAMMEL expressly agrees to them in writing; otherwise, they shall not become part of the contract, even if HAMMEL carries out the delivery of the goods in the knowledge of deviating or conflicting terms and conditions.
3. If and to the extent that translations of these General Terms and Conditions exist in other languages, the German version shall prevail in the event of contradictions or ambiguities.
4. Verbal agreements shall only become effective upon written confirmation by HAMMEL.
5. The written form requirement shall be deemed to have been met if the declaration is made by e-mail or fax. This does not apply to the formal requirements prescribed by law.
6. HAMMEL assumes your consent that electronic communications will be examined, filtered, and classified using state-of-the-art technology, and, if classified as SPAM, (potential) malware, or faulty transmission (which may compromise the integrity of the communication), may be discarded unread without notification to the sender and therefore not delivered. It is the sender's responsibility to obtain confirmation of correct receipt if necessary. Furthermore, emails larger than 10 MB may be discarded. References to Dropbox are treated as potential malware. Executable files, as well as files containing dynamic content, may also be discarded. Documents in PDF-A format are preferred.

§ 2 Offers and descriptions

1. Offers are always subject to change and do not oblige HAMMEL to accept orders.
2. Descriptions of the machines, their performance and their shipment, as well as drawings and plans, contain only approximate information that does not constitute guaranteed properties. Descriptions, drawings and plans remain the property of HAMMEL and may not be reproduced, made available to third parties or used for purposes other than placing an order with HAMMEL without HAMMEL's written consent. The aforementioned documents must be destroyed at HAMMEL's request.
3. The customer assumes responsibility for the dimensions specified by him. He is responsible for ensuring that the design drawings submitted by him do not infringe the property rights of third parties. HAMMEL is not obliged to check whether the submission of offers based on the design drawings sent by the customer infringes the property rights of third parties in the event of execution. If HAMMEL is nevertheless liable, the customer shall indemnify HAMMEL against any recourse claims.

§ 3 Binding nature of the order, withdrawal and compensation

1. An order becomes binding as soon as the customer signs it or the agreed down payment is received, whichever occurs first.
2. If the customer withdraws from the order or if HAMMEL is entitled to withdraw from the contract due to the customer's behaviour (e.g. default in payment, other breaches of duty), HAMMEL may, without prejudice to the possibility of claiming higher actual damages, demand
 - 10% of the order value before the start of construction
 - 30% of the order value after the start of construction
 - 100% of the order value after completionfor the costs incurred in processing the order and lost profits, unless otherwise agreed. The customer reserves the right to prove that the damage was less. Any advance payments received will be offset against the damages owed.

§ 4 Delivery

1. Delivery is subject to the timely and proper fulfilment of the purchaser's obligations. The right to plead non-performance of the contract is reserved.
2. HAMMEL shall endeavour to adhere to the specified delivery times as far as possible. Any delayed deliveries or services shall not oblige HAMMEL to pay damages or a contractual penalty and shall not give rise to any other obligations for HAMMEL. The customer shall be entitled to withdraw from the contract if HAMMEL has exceeded the delivery period by more than two months and the customer has set HAMMEL a reasonable grace period of one month in writing.
3. The delivery period shall commence upon receipt of the agreed down payment, but not before the provision of any documents, approvals and releases to be provided by the customer.
4. The delivery period shall be deemed to have been met if, by the end of the delivery period, notification of readiness for dispatch has been given or the delivery item has left the factory.
5. The delivery period shall be extended in the event of measures taken in the context of industrial disputes, in particular strikes and lockouts, as well as in the event of unforeseen obstacles beyond HAMMEL's control, e.g. operational disruptions, delays in the delivery of essential materials, pandemics and force majeure. The same shall apply if the circumstances occur at upstream suppliers or transport companies. The delivery period shall be extended in accordance with the duration of such measures and obstacles. HAMMEL shall also not be responsible for the aforementioned circumstances if they arise during an already existing delay. In important cases, HAMMEL shall inform the customer of the beginning and end of such obstacles as soon as possible.
6. Partial deliveries are permissible within the delivery periods specified by HAMMEL, provided that this does not result in any disadvantages for use.

7. In the event of default of acceptance or other culpable breach of cooperation obligations on the part of the customer, HAMMEL shall be entitled to compensation for the resulting damage, including any additional expenses. Further claims remain reserved.

§ 5 Transfer of risk / dispatch

1. The risk of accidental loss or accidental deterioration of the goods shall pass to the customer as soon as the goods are ready for collection. In principle, 'ex works' applies in accordance with Incoterms® 2010, unless otherwise expressly agreed in writing. If the goods are ready for dispatch and dispatch/collection is delayed through no fault of HAMMEL, the risk shall therefore pass to the customer upon receipt of the notification of readiness for dispatch. Liability for any damage of any kind arising during loading, unloading and transport of the goods shall be borne by the customer.
2. The mode of shipment and means of transport shall be determined by HAMMEL at its discretion. If shipment is delayed for any reason, HAMMEL may store the ordered goods at its premises or at a third party to be determined by HAMMEL at the expense and risk of the customer. HAMMEL shall only be responsible for the selection of the third party.
3. Postage and packaging costs will be invoiced separately. The packaging becomes the property of the customer and is charged by HAMMEL at cost price, unless otherwise agreed in writing.
4. Shipments and any returns from HAMMEL are at the risk of the customer, even if transport and assembly are carried out by HAMMEL employees.
5. Unless otherwise agreed, delivery from any warehouse within the meaning of Section 5 (2) shall also be at the risk of the customer.
6. Transport insurance shall only be taken out on the instructions and at the expense of the customer.

§ 6 Prices / Terms of payment

1. Unless otherwise agreed, prices are quoted in Swiss francs (CHF). All HAMMEL prices are 'ex works' (according to Incoterms® 2010) and do not include packaging, shipping, handling, insurance or loading. These services will be invoiced separately, unless otherwise agreed in writing. The goods will be packaged in accordance with standard commercial practice and at the expense of the customer, if HAMMEL deems this necessary.
2. Prices are net prices: value added tax will be shown separately and invoiced at the applicable statutory rate.
3. Unless otherwise agreed individually, invoices are payable without any deductions as follows:
 - Diesel engines:
30% down payment with signed order confirmation/purchase contract and 70% balance payment before delivery, but no later than eight days after notification of completion.
 - Electric engines:
50% down payment with signed order confirmation/purchase contract and 50% balance payment before delivery, but no later than 8 days after notification of completion.Spare parts and customer services:
Total price without deduction within 14 days of invoice date.
4. If the customer defaults on payment, HAMMEL shall be entitled to charge default interest at the statutory rate until full payment has been made and to charge storage fees after completion. If HAMMEL is able to prove that the damage caused by the default is greater, HAMMEL shall be entitled to claim this from the customer.
5. Payments in the form of bills of exchange or cheques are not accepted. The sending of a cheque or bill of exchange by the customer does not have a debt-discharging effect or constitute a deferral of the claim.
6. Circumstances which, in HAMMEL's opinion, call into question the creditworthiness of the customer – including, in particular, other outstanding payment items or enforcement measures against the customer – entitle HAMMEL to immediately assert any outstanding invoices regardless of their due dates. In addition, HAMMEL is entitled to demand advance payment or security for due claims from existing or previously concluded contracts. HAMMEL may withhold performance of the contract until this payment or security has been provided in full.
7. In the event of conduct by the customer in breach of contract, resulting in the termination of the business relationship or even of the individual contract, all outstanding claims shall become due for payment immediately and in full upon request.
8. HAMMEL reserves the right to adjust prices if wage rates or material prices change between the time of the offer and the contractual fulfilment.
9. The deduction of discounts requires a special written agreement.
10. The customer shall only be entitled to a right of set-off if his counterclaims have been legally established, are undisputed or have been recognised by HAMMEL. The customer shall also have no right of retention in respect of disputed counterclaims.



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§ 7 Retention of title

1. The delivered goods remain the property of HAMMEL until full payment has been made for all deliveries and other services already rendered and to be rendered in the future. In the case of current accounts, the retained title serves as security for the balance. HAMMEL shall take all measures to register the retention of title at the customer's expense, insofar as this is necessary according to the statutory provisions.
2. The customer undertakes to treat the delivered goods with care until ownership has been transferred to him. In particular, he is obliged to insure them at his own expense against fire, water and theft damage at replacement value and to provide HAMMEL with the relevant proof upon request. The customer must carry out any necessary maintenance and inspection work in good time at their own expense.
3. The customer may not dispose of the goods subject to retention of title ('reserved goods') without the consent of HAMMEL. If the customer resells the delivered goods with HAMMEL's consent, he shall assign the resulting claims against his customers, including all ancillary rights, to HAMMEL as security for HAMMEL's claims up to the value of the reserved goods upon conclusion of the sale. This assignment also applies to claims against insurance companies. The same applies to claims of the customer against the party causing damage if the goods subject to retention of title are damaged or destroyed.
4. The processing and treatment of HAMMEL goods is carried out for HAMMEL without any obligation on the part of HAMMEL. If the customer processes the goods together with other goods not belonging to HAMMEL, HAMMEL shall become co-owner of the new item in proportion to the value of the goods subject to retention of title to the value of the other processed goods at the time of processing.
5. If the value of HAMMEL's securities exceeds HAMMEL's claims by more than 20%, HAMMEL shall release the excess securities.
6. The customer must notify HAMMEL immediately in writing of any seizure or other interventions by third parties so that HAMMEL can take legal action. If the third party is unable to reimburse HAMMEL for the judicial and extrajudicial costs of such legal action, the customer shall be liable for the loss incurred.
7. In the event of third-party access to the goods subject to retention of title, the customer must indicate that they are the property of HAMMEL. If processing/mixing takes place in such a way that the customer's goods are to be regarded as the main item, it is agreed that the customer shall hold the co-ownership in safekeeping for HAMMEL.
8. In the event of breach of contract by the customer, in particular default in payment, HAMMEL shall be entitled to take back the goods subject to retention of title. The taking back or seizure of the goods subject to retention of title by HAMMEL shall not constitute a withdrawal from the contract.

§ 8 Return of goods

1. If due claims of HAMMEL are not settled or not settled within the periods specified in Section 6 (3), HAMMEL shall be entitled, in addition to asserting the rights otherwise available to HAMMEL, to take back the goods delivered under retention of title without this being regarded as an exercise of the right of withdrawal. HAMMEL shall have the same right if HAMMEL becomes aware of circumstances which, in HAMMEL's opinion, make the granting of credit no longer appropriate.
2. If goods are taken back by HAMMEL, HAMMEL shall be reimbursed 30% of the order price as compensation. The customer is entitled to prove that the actual damage is less. HAMMEL reserves the right to prove and assert higher damages.

§ 9 Warranty

1. All information, such as structural values, dimensions, weights, illustrations, descriptions, calculations, assembly sketches and drawings in sample books and other documents do not constitute a guarantee of the existence of a property.
2. The customer must immediately notify HAMMEL in writing of any defects. If, in the case of defects that can be detected during a proper inspection of the goods, the customer fails to submit a written notice of defects within one week, they shall lose their warranty rights. The one-week period shall commence on the day of delivery of the goods. If, in exceptional cases, the goods are not delivered, the period shall commence on the day of handover of the goods.
3. If the goods have a defect for which HAMMEL is responsible, HAMMEL shall be entitled, at its own discretion, to remedy the defect (repair) or to deliver a replacement. If the repair or replacement delivery fails, the customer shall be entitled, at its discretion, to demand rescission (reversal of the transaction) or a reduction in price. The warranty shall generally be fulfilled at the factory in Wolfwil. If the customer requests on-site services, transport and travel costs as well as expenses shall be borne by the customer.
4. Natural wear and tear is excluded from the warranty in all cases.
5. HAMMEL's warranty is subject to the timely fulfillment of the agreed terms of payment and other obligations of the customer. In particular, the performance of inspections (according to the documentation or operating instructions) by HAMMEL's specialist personnel on behalf of the customer is a prerequisite for the warranty to apply.
6. HAMMEL guarantees faultless materials and proper assembly for a maximum period of 18 months or a maximum of 2,000 operating hours from the end of the month of completion (see machine type plate), whichever occurs first. Spare parts and work performed are covered by a warranty period of one year or 1,000 operating hours from the end of the month of completion (see the machine's type plate), whichever comes first. If installation is delayed for reasons beyond HAMMEL's control, the warranty period shall expire no later than 18 months after the date of dispatch from the factory.

Spare parts and repairs carried out under warranty are free of charge. Travel, accommodation and shipping costs or customs clearance fees and taxes are not included, unless otherwise agreed.

7. HAMMEL shall not be liable for any defects in the sale of used machines or machine parts.
8. The warranty shall, at HAMMEL's discretion, cover replacement of the defective part – replaced parts shall become the property of HAMMEL – or repair. HAMMEL reserves the right to make several attempts at repair. The customer is obliged to return defective parts to HAMMEL upon request.
9. If warranty work is carried out by third parties with the written consent of HAMMEL, HAMMEL must be notified immediately, at the latest within eight days of the work being due, if the third party fails to fulfil its obligations or if the customer intends to raise objections to its work. After this period has expired, claims against HAMMEL are excluded.
10. No liability is accepted for delivery items that are subject to premature wear and tear due to their material properties or the nature of their use. This also applies to damage resulting from natural wear and tear, overloading, incorrect or negligent handling, unsuitable operating materials, defective construction work, and as a result of temperature, weather, chemical and electrical influences or other natural influences. Interference by unauthorised third parties or own fault, neglect of maintenance or servicing, fault in operation or other improper interference are not covered by HAMMEL's warranty obligation.

§ 10 Claims for damages

1. If the customer asserts claims for damages, HAMMEL's liability shall be limited to intentional or grossly negligent conduct. Except in cases of intentional breach of contract, HAMMEL shall only be liable for foreseeable, typically occurring damage. The same limitation of liability shall apply in the event of a culpable and material breach of contract on the part of HAMMEL. The exclusion of liability and limitations of liability shall not apply insofar as HAMMEL causes damage resulting from injury to the life, limb or health of the customer.
2. Otherwise, liability for damages is excluded. HAMMEL is not liable in particular for damage that has not occurred to the delivery item itself.
3. Claims for damages due to consequential damage, including in the course of assembly or repair, are excluded in accordance with the restrictions listed in Section 10 (1), even if they are attributable to the fault of auxiliary persons.
4. Any claim for damages, regardless of the legal basis, is always limited to a maximum amount of CHF 1 million per claim.
5. If a third party purchases the machine as the end customer and asserts claims for damages against HAMMEL, regardless of the legal basis, the purchaser hereby indemnifies HAMMEL against any liability on the part of the third party for damage to the goods, other (third-party) property or lost profits, with the exception of damage for which HAMMEL is liable in accordance with Section 10 (1) and (3).

§ 11 Final provisions / Place of jurisdiction / Choice of law

1. Any disputes arising from the contractual relationship shall be brought before the court with jurisdiction over HAMMEL's headquarters. HAMMEL shall also be entitled to bring legal action at the purchaser's headquarters.
2. Swiss law shall apply exclusively, excluding the Convention on Contracts for the International Sale of Goods (CISG), even if the customer's registered office is located abroad.
3. Transfers of rights and obligations of the purchaser arising from the contract concluded with HAMMEL require the written consent of HAMMEL to be effective.
4. Should any provision be or become invalid, this shall not affect the validity of the remaining provisions.
5. Only the German version is legally binding and therefore valid. The English, Italian, French and Romansh versions are primarily for understanding purposes. However, these translations do not contain any legally binding statements or claims to accuracy.

§ 12 Amendment of the General Terms and Conditions / Reservation of the right to make changes

HAMMEL is entitled to unilaterally amend these General Terms and Conditions if this is necessary to remedy subsequent disturbances to the contractual balance or due to changes in case law or legislation. HAMMEL shall inform the contractual partner of any amendment via the last known email address or postal address. The amendment shall become part of the contract if the contractual partner does not object in writing to HAMMEL within six weeks of receipt of the notification of amendment.

The currently valid and binding version of the General Terms and Conditions can be viewed and printed at www.swissrecycling.com.

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