

**§ 1 Scope**

1. The General Terms and Conditions of HELIOSWERKE® soITec GmbH (hereinafter: HELIOSWERKE) are valid exclusively; terms and conditions of the contractual partner, which are contrary to or deviating from these Terms and Conditions, are not accepted by HELIOSWERKE, unless it has explicitly agreed to their applicability.
2. These General Terms and Conditions shall also apply if HELIOSWERKE unconditionally performs the services in knowledge of its contractual partner's terms and conditions contrary to or deviating from these General Terms and Conditions.
3. All agreements deviating from the printed or written contract text require the written form. Other deviations and additions shall become part of the contract only if they are confirmed in writing by HELIOSWERKE.
4. The General Terms and Conditions shall also apply in all future business transacted with the contractual partner. HELIOSWERKE is entitled to apply a company logo or other trademark on its products.

**§ 2 General provisions | Quotes**

1. Before acceptance of the order, HELIOSWERKE'S quotes are subject to change.
2. Orders shall become binding only upon HELIOSWERKE issuing its order confirmation.
3. The information contained in brochures and catalogues and any illustrations represent approximate values as customary in the industry, unless they are explicitly referred to by HELIOSWERKE as being binding.
4. HELIOSWERKE reserves the right to make technical changes also after it has sent the order confirmation if such is required or expedient and the change does not impair the usability, price, delivery period, warranty or other relevant characteristics of the object of delivery in any unacceptable way.

**§ 3 Drawings, models and descriptions**

1. If one of the contractual partners makes drawings or technical documents relating to the product/good to be delivered or its manufacturing available to the other partner, these shall remain the property of the contractual partner submitting them.
2. HELIOSWERKE reserves its copyrights for all illustrations, drawings, calculations and other documents; the documents may not be made accessible to third parties.
3. The manufacturing costs for a model shall be compensated separately, unless agreed otherwise.
4. If the contractual partner HELIOSWERKE suspends or terminates its cooperation during the manufacturing phase of the models, all manufacturing costs incurred by it until then shall be at its expense.

**§ 4 Prices | Terms of payment**

1. All prices are understood ex-factory. The customer shall bear the freight costs and any costs incurred for driving, unless agreed otherwise in writing.
2. If a business relationship is already established with the customer, the payment shall be made less 2% discount within 8 days after the invoice date or without deduction within 14 days after the invoice date. The time required for payment transactions shall be counted toward the discount deadlines, so that a discount can only be used if the payment has been credited to HELIOSWERKE within the discount period. The foregoing provision shall also apply if the invoice is received prior to delivery. If, however, an order is based on a quote, a contract for work and services or another individual agreement, such order shall be subject to the terms of payment for the order as specified in the quote or contract for work and services.
3. For new customers, the delivery will be made only against prepayment.
4. If the customer exceeds the granted payment target dates, HELIOSWERKE shall be entitled to claim default interest in the statutory amount or the amount of the refinancing interest rate incurred by HELIOSWERKE as default damage; further damages can be claimed in addition.
5. HELIOSWERKE shall be entitled to withhold the delivery of the goods until HELIOSWERKE has received appropriate security if circumstances arise in the customer's financial situation after the date on which HELIOSWERKE has mailed the order confirmation, or if circumstances become known only thereupon, which cast doubt over the customer's credit worthiness (e.g. protests of bills, slow payment morale, poor credit information or poor rating, non-judicial settlement, opening of insolvency proceedings, application for such or rejection of the application for the opening of insolvency proceedings for a lack of assets). If this security is not provided within an appropriate period, HELIOSWERKE shall be entitled to withdraw from the contract.
6. Payments by bills of exchange require the written agreement of HELIOSWERKE before the conclusion of the contract. If HELIOSWERKE declares its agreement

to payments by bills of exchange as an exception, the acceptance of bills of exchange shall be on account of performance only. All costs and expenses related thereto, except for discount expenses incurred, shall be borne by the customer. If the conditions according to § 4 (no. 5) are fulfilled on the acceptance of the bill of exchange, HELIOSWERKE shall be entitled to return the bill of exchange and demand cash payment.

7. The customer is not entitled to claim rights of withholding or offsetting, unless the counterclaim is uncontested, found valid by final and absolute judgment, ready to be decided or has been accepted by HELIOSWERKE or the claim is justified as obvious beyond contest so that contesting the claim would be in abuse of right.

**§ 5 Transfer of risk | Transport | Packaging**

1. The risk of accidental loss or accidental deterioration of the goods shall transfer to the carrier, freight forwarder or other person or entity designated for executing the shipment on their delivery to them. The risk of accidental loss or accidental deterioration of the goods shall transfer to the customer at the time when the goods have arrived on the vehicles of HELIOSWERKE at the customer's operating site or the place of destination specified by it. Unloading shall be at the customer's risk.
2. The risk of accidental loss or accidental deterioration of the goods, however, shall transfer to the customer already on the handover of the goods to the carrier or the federal railway company, Bundesbahn, if shipment is made by rail or freight forwarder; this shall apply even if HELIOSWERKE has itself contracted the carrier or the railway.
3. If the delivered goods are assembled by HELIOSWERKE, the risk of accidental loss or accidental deterioration of the goods shall transfer to the customer on acceptance; the customer is obligated to accept the goods delivered and installed by HELIOSWERKE, as soon as HELIOSWERKE has notified it in writing or verbally of the completion of assembly. This shall also apply if delivery and assembly are not part of one and the same order. The commissioning of assembled systems by the buyer or the builder shall be deemed an acceptance.
4. If the delivery, assembly or acceptance is delayed for reasons outside of HELIOSWERKE'S responsibility, the risk of accidental loss or accidental deterioration shall transfer to the customer at the time when HELIOSWERKE has notified it in writing or verbally of the readiness for shipment or acceptance. In such case, HELIOSWERKE shall also be entitled to issue an invoice to the customer immediately for the amount equivalent to the performance status and the additional costs incurred by it, unless the customer experiences a case of force majeure.
5. Unless agreed otherwise, all prices are understood including packaging.
6. The customer is obligated to inform HELIOSWERKE by fax immediately upon receipt of the goods if a transport damage has occurred. The obligation for inspection and notification of defects according to Sec. 377 HGB [German Commercial Code] shall apply, regardless of the transport method, if the customer is an entrepreneur in the definition of the Commercial Code. In that case, the customer shall be obligated to provide all required information to HELIOSWERKE and respectively the insurance company, and submit all required documents to HELIOSWERKE and respectively the insurance company.

**§ 6 Warranty for defects**

1. On acceptance, the price and performance risk shall transfer to the contractual partner. The acceptance shall be conducted directly upon notified completion either by the contractual partner itself or by authorised personnel. This also applies to partial performances.
2. If the products of HELIOSWERKE have been taken fully or partly into operation or if they are in use, the acceptance shall be deemed granted as of the commissioning or start of use (deemed acceptance).
3. HELIOSWERKE shall be liable for the defect-free condition and functioning of its products.
4. The condition is generally dependent on the agreements made. If HELIOSWERKE is required to make deliveries according to specified drawings, specifications, models, etc. of its contractual partner, the latter shall bear the risk of the suitability for the intended purpose of use. The date of the transfer of risk shall be decisive for the condition of the work being in accordance with the contract.
5. Should, in spite of all care applied, the delivered product prove to have a defect that was present already at the time of the transfer of risk, it shall be reworked or a replacement be delivered at the option of HELIOSWERKE subject to a timely notification of the defect. HELIOSWERKE shall be granted the opportunity to provide subsequent fulfilment in all cases and within an appropriate period.
6. If the subsequent fulfilment fails, the contractual partner – without prejudice to any damage compensation claims – may withdraw from the contract or reduce payment.

7. Warranty claims shall not be established in the case of merely insignificant deviation from the agreed characteristics or in case of insignificant impairment of usability. In case of natural wear and tear or damages, which are caused after the transfer of risk in consequence of incorrect or careless treatment, excessive use, unsuitable supplies, deficient construction work, unsuitable construction ground or because of particular external influences not anticipated according to the contract, warranty claims shall likewise not be established. The same applies lastly also to repair work or modifications conducted unprofessionally by the contractual partner or third parties.
8. Claims of the contractual partner for expenses having become necessary for the purpose of subsequent fulfilment, in particular transport, travel, costs of work and materials, shall be excluded, to the extent that the expenses increase because HELIOSWERKE has subsequently transported the products to a different place than the contractual partner's operating site, unless the transport is in accordance with their specified use.
10. If the contractual partner is an entrepreneur, the warranty period is 1 year, calculated from the transfer of risk. This shall not apply if injuries to life or body have occurred in consequence of a defect or if a damage has been caused through intent or gross negligence – in these cases, the warranty period shall be determined according to the legal regulations. In respect of services for reworking or the object of subsequent delivery, HELIOSWERKE shall be liable until expiration of the warranty period applicable to the original object of delivery. For the rest, the statutory warranty periods apply unchanged.

### § 7 Liability limitation

1. Unless provided otherwise in the following, other and further claims of the contractual partner against HELIOSWERKE are excluded. HELIOSWERKE shall therefore not be liable for any damages that have not been caused directly on the delivered product itself. Foremost, it shall not be liable for lost profit or other financial damages of the contractual partner.
2. The foregoing liability limitations shall apply neither in cases of intent nor gross negligence by the legal representatives or managerial staff of HELIOSWERKE, nor in cases of a culpable breach of significant contractual obligations. In the case of a culpable breach of significant contractual obligations, HELIOSWERKE shall be liable solely for the damage typical and reasonably foreseeable for the contract, except in cases of intent and gross negligence by its legal representatives or managerial staff.
3. The liability limitation shall furthermore not apply in cases according to the Product Liability Act, where liability applies to personal injury or property damages on privately used objects due to faults of the delivered product. The liability limitation neither applies in cases of injury to life, body and health nor in cases in which assured properties are absent, if and insofar as the assurance had precisely the purpose of securing the contractual partner from damages that have not occurred on the delivered product itself.
4. Insofar as liability is excluded or limited, this shall also apply to the personal liability of our employees, workers, staff members, legal representatives and vicarious agents.

### § 8 Right of offsetting and withholding

1. HELIOSWERKE'S contractual partner has a right of offsetting only if its counterclaims have been found valid by final and absolute judgment or if they are uncontested. The contractual partner shall be entitled to exercise the right of offsetting only to the extent that its counterclaim is based on the same contractual relationship.

### § 9 Force majeure

1. Force majeure, labour disputes, unrest, measures taken by authorities, failures of delivery by our suppliers and other unforeseeable, unavoidable and serious events shall release the contractual partners from the performance obligation for the duration of the interference and to the extent of its effect. This shall also apply if the events occur at a time when the affected contractual partner is in default. The contractual partners are obligated to immediately provide the required information to a reasonable extent and adjust their obligations to the changed conditions in good faith.

### § 10 Cancellation | Suspension | Termination

1. The customer is aware that the products manufactured by HELIOSWERKE are custom-made products. Terminations, cancellations and suspensions of the effectively placed order shall be permissible only before the completion of a product (Sec. 649 BGB [German Civil Code]).

2. In the event of a termination, suspension or cancellation, HELIOSWERKE shall be entitled to demand payment of the costs as well as a portion of the lost profit having been verifiably incurred up to the effective date of the termination, suspension or cancellation. The portion of lost profit regularly amounts to the sum of incurred costs unless the customer proves otherwise.

### § 11 Reservation of title

1. HELIOSWERKE reserves the titles to the goods until receipt of all payments under the supply agreements concluded with the customer.
2. The customer shall assign to HELIOSWERKE all purchase price, wage or other claims against its buyer arising from transactions, e.g. under purchase agreements or contracts for work and services or contracts for work and materials, which relate to the goods having been delivered under the reservation of title. The customer shall be authorised to collect these assigned claims. HELIOSWERKE'S entitlement to collect the claims itself shall remain unaffected thereof. The customer undertakes to disclose the assigned claims and their debtors to HELIOSWERKE on demand, provide all information required for collection, and inform the debtors in writing of the assignment.
3. The customer is not entitled to pledge the goods delivered to it under the reservation of title or transfer them to third parties by way of security. The buyer shall inform HELIOSWERKE immediately of any pledging or other interventions.
4. In case the customer acts contrary to the contract, in particular in the case of default on payment, the customer shall be obligated to return the goods to HELIOSWERKE on request. This shall only constitute a withdrawal if HELIOSWERKE expressly declares such.
5. If the goods subject to the reservation of title are sold together with other goods that are not owned by HELIOSWERKE, the customer's claim against its buyer shall be assigned to HELIOSWERKE in the amount agreed as the purchase price payment between HELIOSWERKE and the customer on conclusion of the respective supply agreement.
6. All compensation claims held by the customer against its buyer shall be assigned to HELIOSWERKE for the value of the processed property, which is subject to the reservation of title, if HELIOSWERKE'S property under the reservation of title is lost for reason of installation, processing or combining by the customer. The foregoing assignment provision shall also apply if the installation, processing or combining is implemented on order of the customer by the personnel of HELIOSWERKE.
7. HELIOSWERKE shall release any security if the claims to be secured are over-collateralised by more than 10%.

### § 12 Place of fulfilment and place of jurisdiction

1. The place of fulfilment is the place of HELIOSWERKE'S registered office.
2. The General Terms and Conditions of HELIOSWERKE and the complete legal relationship between HELIOSWERKE and the contractual partner shall be governed by the law of the Federal Republic of Germany. The provisions of the UN Convention on Contracts for the International Sale of Goods shall not apply.
3. Should individual provisions of the contract concluded with the customer, including the General Terms and Conditions of HELIOSWERKE, be or become fully or partly invalid, the validity of the remaining provisions shall not be affected thereby. The fully or partly invalid provision shall be replaced by a provision that comes closest to the economic result of the invalid provision.

### § 13 Federal Data Protection Act

1. HELIOSWERKE saves customer data according to Sec. 23 Federal Data Protection Act.