

# General Terms and Conditions of HEGE GMBH, 72805 Lichtenstein

(for application with regard to merchants)

## A. General

Our deliveries are made in accordance with the "General Terms and Conditions for the Delivery of Machines" of the VDMA and considering the following additional conditions that are adapted to our area of work. Should there be any contradictions between our GTC and those of the VDMA, our GTC shall take precedence.

## B. Scope and delivery obligation

1. We submit the first offer free of charge. Further offers with draft work will only be carried out free of charge if the order is carried out. The documents belonging to the offer such as illustrations, drawings, photos and weight information are only approximate unless they are expressly designated as binding in the cost estimate. The supplier reserves the right of ownership and copyright to drawings and other documents; they may only be used by the purchaser for personal use, i.e. they are entrusted to the purchaser and must not be made accessible to third parties. All letters, brochures, drawings, photographs and images relating to the offer and delivery must be returned immediately upon request if the order is not placed with the provider.
2. Our written confirmation of order shall be solely binding for the entire delivery. Every order requires a written confirmation from the supplier in order to be binding for the supplier. Changes that are necessary after the order has been confirmed at the purchaser's request or due to unforeseen circumstances that arise on the purchaser's end, shall entitle the supplier to a special invoice in proportion to the additional expenditure.

## C. Prices and payment terms

1. Unless expressly agreed otherwise, the prices are in EURO, ex-factory, plus VAT at the statutory rate. Freight, customs and other additional charges shall be borne by the recipient. The packaging will be billed additionally.

The dispatch is always freight forward, even if free delivery has been agreed. In the latter case, freight costs etc. shall be paid by the purchaser upon arrival of the shipment and deducted from the final payment, unless the amount has already been deducted from the invoice. The dispatch takes place at the risk of the purchaser.

2. Unless special payment deadlines have been agreed, the following applies within Germany
  - a) Payments shall be made within 30 days, in each case strictly net, in cash, without deduction.
  - b) For orders over €10,000.00, payments shall be made strictly net as follows:  
30% of the order value after receipt of the order confirmation, 60% of the order value upon notification of readiness for dispatch, 10% of the order value within 30 days of delivery, but no later than 30 days after notification of readiness for dispatch.
  - c) Assembly invoices shall be due no later than 14 days after receipt.
3. In the case of deliveries abroad, an irrevocable documentary credit must be opened at a bank to be determined by the supplier, which can be used upon presentation of the shipping documents or a forwarding certificate.
4. The prices are calculated on the basis of the material prices and wages applicable at the time the offer is submitted. Should these experience a significant increase within the period between the submission of the offer and readiness for dispatch, the supplier shall be entitled to correct the agreed prices accordingly. This does not apply during a delay of the supplier and if the increase can be foreseen.
5. The purchaser shall only be entitled to a right of retention and a right to offset if the underlying claim is undisputed, legally established or ready for a decision. If the agreed payment date is exceeded, the supplier shall be entitled to charge default interest in the amount of 2% above the Bundesbank rebate, at least 7%, unless the purchaser can provide evidence of a lower amount of damage. Checks and bills of exchange shall only be considered payment on the day they are cashed. They are only ever accepted by the supplier on a revocable basis. Rebates and expenses shall be borne by the purchaser.

## D. Retention of title

Until the final fulfilment of all (including balance) claims, including those from refinancing/reverse bills, which the supplier and its Group company are entitled to now or in the future against the purchaser and Group companies for any legal reason, the supplier shall be granted the following securities, which the supplier

shall release it at its discretion at the request of the purchaser, provided that the value of the securities exceeds the claims by more than 20%. The goods remain the property of the supplier. The purchaser shall be entitled to sell, install or process the goods still owned by the supplier in the ordinary course of business. It shall inform its customers of the supplier's retention of title. If the purchaser sells the delivery item unprocessed or installs it, it hereby assigns to the supplier its resulting claim against its principal in the amount of the respective sales price of the supplier. If a new item is created through the processing of the delivery item by the purchaser, the supplier's retention of title shall extend to this in such a way that the supplier acquires co-ownership of the new item according to the value (sales price) of the item delivered by the supplier. In the event of the sale (installation) of this item, the purchaser must inform its customers of the supplier's expanded retention of title. In addition, it hereby assigns to the supplier the part of the claim against the customer corresponding to its co-ownership share.

The purchaser is obligated to provide the supplier with the information and documents required to assert its rights. If the supplier does not reserve the right to collect the claims assigned to it, the purchaser shall be entitled to collect them on a fiduciary basis. The purchaser must treat such payments separately and transfer them to the supplier immediately until the supplier's claim has been settled in full. If the payment is made by bank transfer to the purchaser's bank, the purchaser hereby assigns to the supplier the claims to which it is entitled against its bank.

The purchaser is obligated to have appropriate insurance cover for the items owned or co-owned by the supplier. The supplier shall be entitled to check at any time. In the event that damage occurs, the purchaser hereby assigns the claims to which it is entitled against the insurer, insofar as they relate to the property or co-ownership of the supplier.

If the purchaser has declared or declares a fundamental assignment of its claims against its customers and its insurer to a third party, the claims assigned or to be assigned to the supplier according to the above conditions shall be excluded therefrom, which the purchaser hereby expressly confirms and assures. In the event of third-party access to claims owned by the supplier, in particular seizures, the purchaser must immediately inform the third party or the enforcement officer of the supplier's property or ownership by submitting the relevant documents. In addition, the purchaser must inform the supplier immediately of the access and support it in every way in asserting its rights. If the purchaser should suspend its payments, it is obligated to immediately provide the supplier with a list of the items still owned or co-owned by the supplier and a list of the claims against third-party debtors, together with copies of the invoices.

## E. Delivery period

1. Scheduled delivery times are generally non-binding unless they have been expressly guaranteed as binding by the supplier in writing.
2. The delivery period shall apply to completion in the factory and shall commence as soon as all details of the execution have been clarified and both parties have agreed on all terms of the transaction. The agreed delivery period shall be extended appropriately in all cases of force majeure as well as in the context of labour disputes—in particular, strikes and lockouts—and also in the event of operational disruptions, late receipt of materials and accessories, wastage of work items, shipping delays, and all other delays in the production, unless the latter can be traced back to intent or gross negligence on the part of the supplier. It makes no difference whether the aforementioned events occur in the supplier's factory or at its sub-suppliers. The delivery time shall also be extended if the aforementioned events occur during a delay in delivery by the supplier.

The foregoing shall apply accordingly if advance payments are not made on time or official or other permits and documents required for the execution of the delivery or the information required for the execution of the delivery from the purchaser are not received in time. The agreed delivery period shall also be extended if this becomes necessary due to a subsequent change in the order.

3. Partial deliveries shall be allowed.

If the purchaser demonstrably sustains damage as a result of the supplier's failure to comply with a guaranteed delivery deadline according to clause 1, it shall only be entitled to claim compensation for delay in the event of intentional or grossly negligent behaviour on the part of the supplier or its executives, a risk to significant legal interests, a breach of cardinal obligations, or insurable damage. A prerequisite shall also be that the purchaser has met its payment obligations in due time and has issued a written reminder to the supplier and announced that it will be claiming compensation for delay in the event of non-delivery. The amount of the compensation for delay in the case of liability according to clauses 1 and 2 of this section for atypical and unforeseeable damage as well as for slightly negligent

behaviour shall be limited to 1/2% for each week, but in total no more than 5% of the value of that part of the entire delivery, which, as a result of the delay in delivery, could not be used in a timely manner or could not be used appropriately.

- If the shipment is delayed for reasons on the part of the purchaser, the supplier reserves the right to invoice the costs incurred by storage for a period of one month after the notification of readiness for shipment has expired, or at least 1/2% of the invoice amount for each month if the goods are stored in the supplier's factory unless the purchaser can prove lower damages. In addition, after the setting and unsuccessful expiry of a reasonable deadline, the supplier shall be entitled to otherwise dispose of the item and to deliver to the purchaser with an appropriately extended deadline.
- The purchaser may only demand compliance with the delivery deadlines assured in accordance with clause 1 if the contractual obligations incumbent on it are fulfilled on time.

#### **F. Transfer and delivery**

The risk transfers to the purchaser at the latest with dispatch of the delivery parts. If dispatch is delayed due to circumstances for which the supplier is not responsible, the risk transfers to the purchaser when the purchaser is notified that the goods are ready for dispatch.

Unless otherwise agreed, transport insurance will be taken out at the purchaser's expense.

The most sensitive delivery parts are shipped in appropriate rail, truck or postal packaging; otherwise delivered is made unpackaged.

#### **G. Liability for defective deliveries**

For defects in the delivery, which also include the lack of expressly guaranteed properties, the supplier is liable for 6 months from the date of commissioning. The warranty period is 3 months in the case of day and night operation. In the case of delivery without installation, the aforementioned warranty periods shall run from the time of delivery. If dispatch, installation or commissioning are delayed through no fault of the supplier, liability shall expire no later than 12 months after the transfer of risk. Any defects discovered must be reported to the supplier immediately in writing. The supplier's liability shall be limited in that, at its discretion, it replaces or redelivers the parts that can be proven to be unusable or significantly impaired in their usability as a result of a circumstance prior to the transfer of risk, e.g. due to faulty design, poor materials or poor workmanship. Replaced parts become the supplier's property. If the subsequent repair fails, the purchaser can choose to either request a reduction in the remuneration or the cancellation of the contract. Further claims, in particular claims for damages, including those for compensation for consequential damage, are excluded unless in the event of intentional or grossly negligent behaviour on the part of the supplier or its executives, a risk to significant legal interests, a breach of cardinal obligations, or insurable damage.

Unless a lack of a guaranteed property or wilful or grossly negligent behaviour exists, liability is limited to the value of the delivery item. The limitation of liability also applies in the case of wilful and grossly negligent behaviour if it caused atypical and unforeseeable damage.

For third-party products, the supplier's liability is limited up to an unsuccessful foreclosure attempt by the purchaser against the third-party product supplier to the assignment of liability claims against the third-party product supplier.

No new warranty period is triggered when repairs are carried out.

No warranty is assumed for damage caused by the following reasons: unsuitable or improper use, assembly not carried out by the supplier, commissioning by the purchaser or a third party, natural wear and tear, incorrect or negligent treatment, excessive use, non-use of the resources prescribed by the supplier, (if no regulation has been made) unsuitable equipment, replacement materials, defective construction work, unsuitable building site, chemical, electrochemical or electrical influences, provided they are not due to the fault of the supplier, as well as force majeure.

The supplier's liability expires if the purchaser carries out work on the delivery item itself or through a third party without the consent of the supplier. Furthermore, the supplier is not liable if the purchaser does not give it the necessary time and opportunity to carry out remedial work. The supplier may refuse to remedy defects as long as the purchaser does not properly fulfil the obligations incumbent on it under the contract, in particular an obligation to pay. This does not inhibit the expiry of the warranty period. If the purchaser refuses the obligations incumbent on it, the supplier is released from liability.

#### **H. Impossibility, adjustment of contract**

- If delivery or performance incumbent on the supplier is impossible through a fault of the supplier, the purchaser is entitled to claim damages in the event of intentional or grossly negligent behaviour on the part of the supplier or its executives, a risk to significant legal interests, a breach of cardinal obligations, or insurable damage. In the case of liability according to clause 1 of this section, the amount of the purchaser's claim for damages in the case of atypical and unforeseeable damage as well as in the case of slightly negligent behaviour is limited to 10% of the value of that part of the delivery or service which, due to

the impossibility, cannot be put into appropriate operation.

Paragraph 1 shall apply accordingly in the case of impossibility of the supplier.

- In case of unforeseen events within the meaning of Section E clause 2 para. of the Terms and Conditions of Delivery, provided that they significantly change the economic meaning or the content of the service or have a significant impact on the operation of the supplier, and in the event that it becomes subsequently impossible to carry out the contract, the contract shall be adjusted accordingly. As far as this is not economically feasible, the supplier shall be entitled to withdraw from the contract partially or fully. If the supplier wants to exercise this right to withdrawal, it shall notify the purchaser upon recognising the consequences of this event and do so even though an extension was initially agreed to with the purchaser.

#### **I. Other claims for damages**

Claims for damages by the purchaser from positive breach of contract, from breach of obligations in contract negotiations, from tort, etc. are excluded, unless in the event of intentional or grossly negligent behaviour on the part of the supplier or its executives, a risk to significant legal interests, a breach of cardinal obligations, or insurable damage. In the case of liability according to sentence 1 of this provision, the amount of the claim for damages is limited to the value of the delivery item in the case of atypical and unforeseeable damage as well as slightly negligent behaviour.

#### **J. Non-performance by the purchaser**

If the purchaser fails to fulfil its contractual obligations, the supplier shall be entitled, without the need to set a grace period, to demand advance payment for the entire order, to demand security and to refuse further fulfilment of the contract. The supplier may also claim damages in accordance with the statutory provisions and withdraw from the contract, whereby the purchaser must compensate for any depreciation and any costs for the return transport of the delivery item. The supplier shall also be entitled to the rights from sentence 1 and a right of withdrawal if, after the conclusion of the contract, the purchaser's financial situation develops disadvantageously or if the supplier receives credible information about the purchaser's poor creditworthiness.

The supplier may demand 25% of the net invoice amount as damages, subject to the assertion of verifiable further damages. The purchaser is free to provide evidence that the supplier suffered only minor damages.

If the supplier is forced to store the delivery item or parts thereof in the event of a breach of contract by the purchaser, this shall be done at the purchaser's expense.

#### **K. Place of performance, jurisdiction, applicable law**

If the purchaser is a registered merchant, Lichtenstein shall be the place of performance and Reutlingen shall be the exclusive place of jurisdiction. The law of the Federal Republic of Germany applies to the exclusion of the uniform UN Sales Convention (CISG).

#### **L. Ancillary agreements, amendments**

Ancillary agreements and amendments to the contract must be confirmed in writing by the supplier in order to be valid.

#### **M. The GTC of the supplier take precedence**

The above provisions always take precedence over any conditions of the purchaser, even if these have not been expressly contradicted.

#### **N. Partial ineffectiveness**

Should one of the above provisions not apply for any reason, this shall not affect the binding force of the remaining provisions.

With regard to the costs arising from the repair or replacement delivery, the supplier shall bear the costs of the replacement part, including shipping, as well as the reasonable costs of dismantling and installation, if the complaint is justified, and if this can be reasonably required depending on the individual case, the costs of any necessary provision of its fitters and assistants. All other costs shall be borne by the purchase