

# General Terms and Conditions (GTCs), Hager Industrie AG



## 1. Scope of application and inclusion

**1.1** These General Terms and Conditions (GTCs) shall apply exclusively to the business transactions between Hager Industrie AG (hereinafter HIAG) and the buyer, or rather the orderer (hereinafter Orderer). By means of ordering a quotation from HIAG, the Orderer shall accept these GTCs.

**1.2** Agreements deviating from these GTCs shall be expressly described as such and shall require a written form, whereby the text shall provide sufficient verification.

**1.3** Individual agreements between the parties shall be subject to section 1.2 of these GTCs. The provisions of the Swiss Code of Obligations shall apply secondarily.

## 2. Client consultation and project development

**2.1** Upon request, HIAG shall provide the Orderer with concepts, proposals and suggestions – free of obligation.

**2.2** HIAG completely excludes all liability for planning and calculation errors as well as erroneous combinations of switchgear based thereupon. Liability and warranties shall be restricted to the information in the service descriptions, instruction manuals and documentation regarding the products.

**2.3** The responsibility for verification of a HIAG product's suitability for the intended use or combination shall be borne exclusively by the Orderer. In case of doubt, a civil or electrical engineer must be consulted. The Orderer may not rely on information supplied by HIAG staff.

## 3. Documentation and instruction manuals

HIAG provides service descriptions, documentation and/or instruction manuals in German and English. Should the Orderer require these documents in another language, they shall bear the costs of translation.

## 4. Price quotations

**4.1** The prices quoted by HIAG in the non-binding quotations are expressed in EUR, ex works CH-6020 Emmenbrücke (LU), and exclude costs for transport packaging.

**4.2** HIAG may amend prices (price lists) at any time. There may be additional charges in respect of prices indicated with the mark 'MTZ' (material surcharge), due to raw material increases after conclusion of the agreement.

**4.3** The Orderer shall be liable for a material surcharge according to the rates of the International Commodity Exchange in London exceeding the following limits at the time of dispatch of the order to HIAG (Day D):

- EUR 400 per 100 kg copper
- EUR 300 per 1 kg silver
- EUR 150 per 100 kg brass

**4.4** The surcharge for the relevant precious metal(s) is calculated according to the following formula:

MTZ = weight of the precious metal content of the order X (precious metal rate on Day D / precious metal limit)

**4.5** No discounts shall be granted on surcharges. Precious metal surcharges shall be charged in EUR.

**4.6** HIAG shall determine the pricing for additional services, such as transport packaging and individual labelling and/or marking, etc., according to the individual case.

## 5. Ordering

**5.1** The Orderer shall specify in the order all required or additional services by HIAG, in particular:

- a) special packaging,
- b) individual labelling or marking of goods or
- c) including documentation regarding the delivery of goods, required by the Orderer or third parties (for example, a declaration of origin in the invoice, movement certificates, declarations of conformity, etc.).

**5.2** Placing an order under the offered conditions shall be binding on the Orderer.

**5.3** The Orderer may transmit the order electronically to HIAG. HIAG shall not be liable for the dispatch, transmission and receipt or damages resulting therefrom. Should an order be automatically deleted by HIAG's IT system (e.g. by the spam filter), no notification thereof shall be made to the Orderer. HIAG may take the electronic ordering system offline on justified grounds without notifying the Orderer (e.g. suspicion of viruses, third-party interference, etc.).

## 6. Order confirmation

**6.1** HIAG shall be obliged to render services to the Orderer only upon delivery of a written or electronic order confirmation.

**6.2** The Orderer shall examine the order confirmation forthwith and notify HIAG of any complaints at the latest within three working days of its issue. Failing such, the order confirmation shall be deemed approved, notwithstanding anything to the contrary in the order.

**6.3** The Orderer may, with HIAG's consent, subsequently amend an approved order under full compensation for all additional costs asserted by HIAG (last-minute changes).

**6.4** In the absence of anything to the contrary in writing, the date on the order confirmation shall merely be an indicative, non-binding estimation of the time when the goods, including delivery and customs documentation, will be ready to be collected for dispatch.

## 7. Delivery terms, dispatch and packaging costs

**7.1** HIAG shall deliver the goods pursuant to the Incoterms 2020 provisions FCA (Free Carrier) at its premises in CH-6020 Emmenbrücke (LU), Switzerland.

**7.2** Depending on the size and weight of the delivery, HIAG shall deliver either by means of parcel delivery by post or as cargo by lorry.

- Weight 0–19.9 kg, Dimensions 100x600x600 mm: Delivery via standard post
- Weight 20 kg and over, Max. size 2200 mm: Delivery via cargo, by lorry

**7.3** The Orderer shall inform HIAG in writing at least five working days before the collection date pursuant to the order confirmation of who will undertake the transport. Failing such, HIAG shall appoint a transport company of its choice at the Orderer's expense. Regardless of the cost obligation and the arrangement for transport,

HIAG shall assume no liability for damage of the goods during transport. It shall be the responsibility of the Orderer to take out insurance.

**7.4** HIAG shall not take back any packaging material or similar. Disposal shall be performed by the Orderer at its expense.

**7.5** The details in the order confirmation regarding the delivery time shall be binding subject to section 9. HIAG shall be entitled to perform partial deliveries. Should the Orderer request partial deliveries, it shall indemnify HIAG for the asserted additional costs.

## 8. Default of acceptance by the Orderer

Should – due to the Orderer breaching their obligation of cooperation – the dispatch-ready goods not be sent or only sent after a delay, or should the Orderer fail to accept the goods, the goods shall be stored at the Orderer's expense and risk. In such cases any additional packaging and/or transportation costs shall be borne by the Orderer.

## 9. Delivery delays

**9.1** In principle, HIAG shall strive to comply with the delivery date. The date pursuant to section 6.4 shall refer to the notification of 'ready for collection' and shall indicate the readiness of the goods, including the delivery and customs documentation, for dispatch or for collection at its premises in CH-6020 Emmenbrücke (LU).

**9.2** HIAG shall notify the Orderer as soon as possible regarding delivery delays. The liability for delays for which HIAG is responsible shall be limited to a maximum of 10% of the order value of the goods.

**9.3** Due to unforeseen circumstances, particularly such as force majeure, transport and operating errors, material shortages, labour disputes, etc. at HIAG or its suppliers, HIAG shall be entitled to delay delivery or, if necessary, withdraw completely or partially from the agreement. The Orderer may not derive any claims therefrom. The same shall also apply when said events occur while HIAG is in default.

## 10. Invoicing

**10.1** The Orderer shall examine invoices forthwith upon receipt. The invoice amount shall be deemed accepted if the Orderer fails to lodge a written, substantiated objection within 10 working days of the invoice date. HIAG shall examine the objection and amend the invoice, should it deem the objection justified.

**10.2** HIAG shall issue electronic invoices upon the written request of the Orderer. In general, the transmission of invoices shall be unencrypted. HIAG shall not be liable for any damages resulting from software which is defective and/or manipulated by third parties or data (viruses, worms, hacker attacks, etc.). HIAG particularly excludes liability for damage resulting from electronic ordering and/or electronic invoicing.

## 11. Payment terms

**11.1** Unless otherwise stated, the Orderer shall pay the full invoice amount (i.e. without any deductions of discounts, expenses, taxes, levies, fees, customs duties and similar) into HIAG's account within 30 days of the invoice date. Once the due date expires – and without a payment reminder – the Orderer shall automatically be in default and shall owe HIAG

default interest at 8%.

**11.2** HIAG may readily request prepayment.

**11.3** HIAG shall not accept cheques, bills of exchange or similar.

**11.4** The Orderer shall not offset its purchase price debt to HIAG with any counterclaims (offset prohibition). In particular, the Orderer shall not be entitled to withhold payment due to alleged defects in purchased goods which do not restrict the functionality of the products.

**11.5** Should the Orderer be in default of payment, HIAG shall be entitled to withdraw from the agreement without notice, reclaim the delivered goods and have them returned at the Orderer's expense.

## **12. Defective purchased goods**

### **12.1 Notice period**

**12.1.1** The Orderer shall examine the delivery forthwith upon receipt. HIAG shall be notified in writing of defects immediately after detection, at the latest within 8 working days of the delivery's arrival at its destination, stating the following:

- Product name and serial number
- A concise description of the defect
- Quantity of products affected
- Purchase price
- Order number
- Weight, dimensions and location of the defective products

**12.1.2** Upon expiration of the notice period and in the absence of such notice, the delivery shall be deemed approved without reservation. HIAG's warranty for subsequent defects shall cover all defects occurring within 24 months of the delivery date, provided that the defects verifiably resulted from poor material or faulty production and are not due to improper storage or handling, overuse or inappropriate use or installation. The Orderer shall bear the onus of proving poor material or faulty manufacturing. The exercise of warranty rights, particularly the subsequent repair to which HIAG is entitled, shall cause neither an interruption nor a halt to the one-year period.

### **12.2. Warranty claim processing**

**12.2.1** Unless otherwise agreed, the Orderer shall return the defective goods to HIAG pursuant to the Incoterms 2020 DAP (delivered at place; plant CH-6020 Emmenbrücke (LU), Switzerland). Alternatively, HIAG may, at its sole discretion, elect to collect the defective products at the invoice address or the delivery address.

**12.2.2** The Orderer shall be obliged to describe the goods to be returned as such (temporary import/export of goods for processing, transformation or repair) and to produce the documents required for orderly tax and customs exemption or refunding.

**12.2.3** Should HIAG's examination of the returned goods establish that they are without defect ('NFF' [no fault found]) or present a case to exclude them from the warranty, the Orderer shall, within 30 days of receipt of the NFF notice, disclose whether it requires repair/replacement. If so, the Orderer shall indemnify HIAG for all expenses regarding the repair/replacement, packaging, transport, taxes and administration. In the absence of such disclosure by the due date, or should the Orderer have waived repair and replacement, HIAG shall dispose of the goods at the Orderer's expense.

**12.2.4** HIAG may claim compensation for additional handling costs from the Orderer, if it should have been obviously apparent to the Orderer that there were no defects or that the goods were excluded from the warranty.

## **12.3 Warranty rights**

**12.3.1** The Orderer may indicate a preferred remedy for the defect in its notice to HIAG. HIAG shall, if possible, follow said option selected by the Orderer, though shall not be bound thereto.

**12.3.2** HIAG shall remedy the defect at its sole discretion by means of repair and/or replacement with defect-free goods of similar type or parts thereof. Further claims by the Orderer, as well as rescission and reduction, shall be excluded. The defect-free goods shall be dispatched pursuant to Incoterms 2020 DAP (delivered at place). Alternatively, HIAG may, at its sole discretion, elect to deliver the defect-free goods at the invoice address or at the original delivery address.

**12.3.3** The warranty or guarantee to the Orderer for products from other manufacturers and suppliers shall be limited to warranty or guarantee claims conceded, and in particular cases fulfilled, by said manufacturers and suppliers towards HIAG. HIAG shall cede, with a discharging effect, to the Orderer all its warranty and guarantee rights against other manufacturers and suppliers regarding the relevant products (rights to repair, rights to replacement and, insofar as they are transferable, reduction and rescission rights), as well as the related rights to complaint and rights arising from concluded agreements. The Orderer shall be authorised to exercise in the name of HIAG the options required to assert the ceded guarantee or warranty rights. Upon request, HIAG shall provide information on the relevant warranties or guarantees by product manufacturers and suppliers.

### **12.4 Exclusion of warranty and loss of defect rights**

Should the products not be applied according to the relevant conditions of use (available at [www.hager.ch](http://www.hager.ch)) by HIAG, or modified by the Orderer or third parties, or should parts from other manufacturers be fitted, all warranty or guarantee claims shall be rendered invalid. Damage caused by wear and tear or by inappropriate or unintended use shall not be covered by the warranty.

## **13. Compensation for damages and limitation of liability**

**13.1** The Orderer shall assert claims against HIAG for compensation for damage solely in the event of intent or gross negligence. HIAG shall exclude contractual as well as non-contractual liability for the conduct of auxiliary persons, and/or sub- and joint contractors. The Orderer shall not assert claims against HIAG for indirect damage or consequential damage (particularly loss of profit).

**13.2** Furthermore, HIAG shall not be liable for the Orderer's selection and use of the products. Any statements thereto by HIAG staff shall be deemed concepts, proposals and suggestions, which shall be subject to expert examination.

**13.3** HIAG's liability and warranty shall be restricted insofar as it is legally permissible to the amount of the total value of goods ordered by the client in question within a 12-month period prior to receipt of the defect notice. Defects of the same nature in the same type of products (so-called serial defects) shall count as one liability case.

## **14. Severability clause**

Should a provision of these GTCs be or become unenforceable, the remaining provisions shall not be affected thereby. The parties shall undertake to make in its stead an enforceable arrangement, which shall resemble as closely as possible such unenforceable provision.

## **15. Agreement amendment**

These GTCs may be amended by HIAG at any time and without notice.

## **16. Applicable law and jurisdiction**

**16.1** Swiss law shall be applicable to the legal relationship between HIAG and the Orderer, to the exclusion of the conflict rules pursuant to Swiss International Private Law as well as the United Nations Convention on the International Sale of Goods (CISG).

**16.2** HIAG's actual domicile shall be the exclusive place of jurisdiction for all disputes arising from, or in connection with, the legal relationship between HIAG and the Orderer.

Hager Industrie AG / As at May 2023