

**General Terms and Conditions of Purchase  
of Hegewald & Peschke Meß- und Prüftechnik GmbH**

**I. Scope**

1. These Terms and Conditions will only be applied in relation to persons who act in the performance of their commercial or self-employed activity when concluding the contract (business people) as well as corporate bodies under public law and special funds under public law (hereinafter referred to as "Supplier").
2. All deliveries, services and offers made/provided to Hegewald & Peschke Meß- und Prüftechnik GmbH (hereinafter referred to as "Customer") by the Supplier shall only be based on these General Terms and Conditions. These shall form an integral part of all contracts which the Supplier concludes with his Customer for the deliveries and services offered by him. They shall also apply to all future deliveries, services and offers to the Customer, even if they are not agreed separately again.
3. Any terms and conditions of the Supplier or third parties shall not apply, even if, in individual cases, the Customer does not object to their application separately. Even if the Customer makes reference to a letter that contains terms and conditions of the Supplier or a third party or refers to them, this shall not be considered as a consent to the application of such terms and conditions.

**II. Offers and Orders**

1. Offers and quotations of the Supplier shall be binding and free of charge, unless it has been agreed expressly that they are subject to a charge.
2. If the orders do not contain any commitment period expressly, the Customer shall be bound by them for five working days after the date of the order. The receipt of the declaration of acceptance by the Customer shall be decisive for the timely acceptance.
3. The Customer shall be entitled to change the time and place of delivery and the type of packaging at any time by written communication at least 10 working days before the agreed delivery date. The same shall apply to changes of product specifications insofar as they can be implemented within the Supplier's normal production process without considerable additional time and expenses; in such cases, the period for announcement under the aforesaid sentence shall be at least 15 days. The Customer shall reimburse the Supplier the proven and reasonable additional costs resulting from each of the changes. If such changes result in delays in delivery which cannot be avoided with reasonable effort in the Supplier's normal production and business operations, the originally agreed delivery date shall be postponed accordingly. The Supplier shall inform the Customer in writing of the additional costs or delays in delivery which he expects after careful consideration in good time before the delivery date, but within no more than 5 working days after the receipt of the communication under Sentence 1.
4. The Customer shall be entitled to terminate the contract at any time by written declaration, with the reason being given, if the Customer can no longer use the ordered products at his business due to circumstances occurring after the conclusion of the contract. In such case, the Supplier shall be paid for the partial performance which he has already rendered.
5. The Supplier shall be obliged to give the Customer information about the progress of the order at any time and, particularly in the case of contracts for work and services, to grant him access to the Supplier's plant for examining the progress of work.

### **III. Prices, Terms of Payment, Information in Invoices**

1. The price indicated in the order shall be binding.
2. Unless otherwise agreed in writing, the price shall include delivery and transport to the address for shipment which is mentioned in the contract as well as the costs of packing, insurance, export and import fees and customs duties.
3. If, pursuant to the agreement made, the price does not include the packaging and the payment for the packaging (which is provided not only on loan) has not been defined expressly, the packaging shall be invoiced at the provable cost. On request, the Supplier shall take back the packaging at his own expense.
4. Unless otherwise agreed, the Customer shall pay the purchase price with a 3% discount within 14 days, or net within 30 days, from the delivery of the goods and the receipt of the invoice. For the timeliness of the owed payment, the receipt of the transfer order by the Customer's bank shall be sufficient.
5. In all order confirmations, delivery documents and invoices, the order number, delivery quantity and delivery address shall be indicated. Furthermore, the required and/or requested documents (material certificates, supplier's declaration and the like) shall be submitted together with such documents. Should one or more of the above pieces of information or documents be missing and the handling by the Customer be delayed in the ordinary course of business as a result, the periods for payment mentioned in Paragraph 4 shall be extended by the period of the delay.
6. In the case of any default of payment, the Customer shall owe a default interest of 5 per cent above the basic rate of interest under Art. 247 of the German Civil Code (BGB).

### **IV. Delivery Time and Delivery, Passing of Risk**

1. The delivery time (delivery date or period) indicated by the Customer in the order or other delivery time applicable under these General Terms and Conditions of Purchase shall be binding. A premature delivery shall only be permitted with the Customer's prior consent.
2. The Supplier shall be obliged to inform the Customer immediately if circumstances arise or become obvious due to which the delivery period cannot be complied with.
3. If the day on which the delivery shall be performed at the latest can be determined on the basis of the contract, the Supplier shall be in default at the end of such day without any reminder by the Customer being necessary.
4. In the case of a delay in delivery, the Customer shall be entitled to his legal claims – including the right of withdrawal and the claim for damages instead of performance after the fruitless expiry of an adequate grace period – without restriction.
5. In the case of a delay in delivery, the Customer may, after a prior written warning to the Supplier, charge a contractual penalty amounting to 0.2% for each working day of the delay in delivery, but no more than 5% of the order value concerned. The contractual penalty shall be counted towards the compensation for damage caused by delay for which the Supplier is liable.
6. The Supplier may not perform any partial deliveries without the Customer's prior consent.
7. The risk shall not pass to the Customer until the items have been handed over at the agreed destination, even if dispatch has been agreed.

### **V. Ownership Protection**

1. The Contractor reserves the ownership of, and/or copyright to, all orders submitted by us and all drawings, images, calculations, descriptions and other documents provided to the Supplier. Without the Customer's express consent, the Supplier may neither make them accessible to third

parties nor use them – or cause third parties to use them – for himself or reproduce them. On request, he shall return said documents to the Customer completely if he no longer needs them in the ordinary course of business or if any negotiations have not led to the conclusion of a contract. In such case, any copies of them which may have been produced by the Supplier shall be destroyed; this shall not apply to any preservation under legal duties to preserve records or the storage of backup copies of data as part of customary data backups.

2. Tools, devices, models and supplies which the Customer provides to the Supplier or which are produced for the performance of the contract and are billed to the Customer separately by the Supplier shall remain property of the Customer or their ownership shall pass to him, respectively. They shall be marked as property of the Customer by the Supplier, kept safely, protected against damage of all kinds and used only for purposes of the contract. Each Party shall bear half of the costs of their maintenance and repair, unless otherwise agreed. If, however, said costs result from defects of such items produced by the Supplier or from their improper use by the Supplier or his staff members or other performing agents, they shall be borne by the Supplier alone. The Supplier shall immediately inform the Customer of all damage to said items which is not only minor damage. Upon request, he shall be obliged to surrender the items to the Customer in a proper condition if he no longer needs them for the performance of the contract.
3. Retentions of title by the Supplier shall only apply insofar as they relate to payment obligations of the Customer for the products for which the Supplier reserves the title. In particular, any overall or extended retention of title shall not be permitted.

## **VI. Warranty Claims**

1. The Supplier warrants, in particular, that all items supplied by him comply with the requirements on them pursuant to the order, they are free of defects, they are of customary quality, no third-party rights are infringed by the delivery, utilisation and use of the items, and they are suitable for the intended purpose.
2. In the case of defects, the Customer shall be entitled to his legal claims without restriction. Apart from that, however, the warranty period shall be 30 months for material defects and defects of works and 60 months for defects of title, counted from the date of the handover or acceptance in each case.
3. Complaints about deviations in quality or quantity shall be considered made in a timely manner in any case if the Customer communicates them to the Supplier within 10 working days from the receipt of the item by the Customer. Complaints about hidden material defects shall be considered made in a timely manner in any case if the complaint is communicated to the Supplier within 10 days after the discovery of the defect. If the Supplier does not fulfil his warranty obligations within an adequate period or if circumstances exist which make immediate action necessary, the Contractor may take the necessary action himself at the Supplier's expense.
4. By accepting or approving any models or samples presented, the Customer shall not waive any warranty claims.
5. Upon the receipt of the written complaints by the Supplier, the lapse of the warranty claims shall be suspended until the Supplier rejects the Customer's claims or declares the defect rectified or otherwise refuses to continue negotiations about the Customer's claims. In the case of replacements or the rectification of defects, the warranty period shall recommence for replaced or repaired parts unless, according to the Supplier's conduct, the Customer had to assume that the Supplier did not consider himself obliged to take such action but that the replacement or rectification of defects was only performed as a gesture of goodwill or for similar reasons.
6. The place of performance for the warranty obligations shall be the place at which the items and/or services complained about are located at the time at which the defect is found.

## **VII. Product Liability**

1. The Supplier shall be responsible for all claims made by third parties due to any personal injury or property damage which are due to a faulty product supplied by him, and he shall be obliged to indemnify the Customer from the resulting liability. If the Customer is obliged to recall products from third parties due to a fault of a product supplied by the Supplier, the Supplier shall bear all costs in connection with the product recall.
2. The Supplier shall be obliged maintain a product liability insurance policy with an amount of cover of at least 100,000.00 € at his own expense, which, unless otherwise agreed in individual cases, need not cover the risk of recall nor punitive damages or similar damage. The Supplier shall deliver a copy of the liability insurance policy to the Customer at any time on request.

#### **VIII. Intellectual Property Rights, Co-ownership in the Case of Processing**

1. In accordance with Paragraph 2 below, the Supplier warrants that the Products supplied by him do not infringe any third-party intellectual property rights in the countries of the European Union or in any other countries in which he manufactures the products or has them manufactured.
2. The Supplier shall be obliged to indemnify the Customer against all claims which third parties make against the Customer due to the infringement of industrial property rights which is referred to in Paragraph 1, and he shall reimburse the Customer all necessary expenses in connection with such claims being made. Said claim shall not exist insofar as the Supplier proves that he is neither responsible for the infringement of intellectual property rights nor would have had to identify it at the time of delivery by using a trader's due diligence.
3. Any further legal claims of the Customer based on defects of title of the products supplied to him shall remain unaffected.
4. The Supplier shall process the materials supplied by the Customer for the Customer. The Customer shall acquire co-ownership of the items manufactured using such materials in the ratio of the value of such supplies to the value of the item as a whole. The item as a whole shall be stored for the Customer by the Supplier to that extent.

#### **IX. Spare Parts**

1. The Supplier shall be obliged to have spare parts for the products supplied to the Customer available for a period of at least 10 years after delivery.
2. If the Supplier intends to cease the production of spare parts for the products supplied to the Customer, he shall inform the Customer thereof immediately after the decision on the cessation. Said decision must – subject to Paragraph 1 – be made at least six months before the cessation of production.

#### **X. Secrecy**

1. The Supplier shall be obliged to keep secret the conditions of the order as well as all information and documents provided for this purpose (except for publicly accessible information) for a period of three years after the conclusion of the contract and to use them only for the execution of the order. He shall return said documents to the Customer immediately on request after dealing with requests for quotation or after handling orders.
2. Items which have been manufactured according to documents created by the Customer, e.g. drawings, models and the like, or according to his confidential information or with his tools or tools copied from them may not be used by the Supplier for himself nor be offered or supplied to third parties by him.

3. Without the Customer's prior written consent, the Supplier may not make reference to the business relationship in advertising materials, brochures etc.
4. The Supplier shall oblige his sub-suppliers to maintain secrecy in the same way.

#### **XI. Assignment of Claims**

1. The Supplier shall not be entitled to assign his claims arising from the contractual relationship to third parties. This shall not apply insofar as claims for money are concerned.

#### **XII. Assignment of Staff Members and Subcontractors**

1. An assignment of subcontractors shall only be permitted with the Customer's prior consent. The Supplier shall ensure that the subcontractor will fulfil the obligations under the contract in the same way.
2. The Supplier undertakes towards the Customer to assign only suitable and reliable personnel and subcontractors with the performance of the contract.
2. The Supplier shall ensure that for his personnel as well as the personnel of his subcontractors, the due taxes and social insurance contributions under the provisions of the law will be paid to the competent collection agencies completely and in a timely manner and that the statutory minimum wage will be paid to the personnel.
3. If liability claims are made against the Customer due to any breach of the Supplier's obligations under Paragraph 2, the Supplier undertake to indemnify the Customer against all resulting liability claims upon first request.

#### **XIII. Final Provisions**

1. If the Supplier is a trader, a corporate body under public law or a special fund under public law or if he does not have any general place of jurisdiction in the Federal Republic of Germany, the place of jurisdiction for all disputes which may arise from the business relationship between the Parties shall be the Customer's place of business. Mandatory legal provisions on exclusive places of jurisdiction shall remain unaffected by this provision.
2. Only the law of the Federal Republic of Germany shall apply to the relationships between the Parties. The United Nations Convention on Contracts for the International Sale of Goods dated 11/04/1980 (CISG) shall not apply.
3. Should an individual provision of the above General Terms and Conditions be or become ineffective, the effectiveness of the other provisions or the contract shall remain unaffected otherwise. The Parties shall then perform the contract with an effective substitute provision which comes closest to the economic purpose pursued with the omitted provision. The same shall apply, mutatis mutandis, to regulatory gaps.
4. The Parties agree that the personal data may be stored, used and processed for the performance of this contract. A transmission of data shall also be permitted insofar as it is necessary for the performance of the contract.

Nossen, 01/07/2016

Hegewald & Peschke Meß- und Prüftechnik GmbH