

# General Terms of Business

## Hedinger TECH AG & Hedinger MRO AG (hereinafter referred to as Hedinger)

### I. General

1. These General Terms of Business apply to all goods and services rendered by Hedinger TECH AG & Hedinger MRO AG to a contractual partner.
2. Divergent or additional provisions by the customer shall apply only if they are expressly accepted by us in writing. Our terms of delivery shall apply even when Hedinger performs a delivery or service unconditionally in the knowledge of a customer's conflicting or deviating conditions. The customer shall accept the General Terms of Business of Hedinger as binding, even if his order or previous correspondence objects to their application and refers to his own terms. Hedinger's General Terms of Business shall also apply to all further business transactions with the customer. Unless otherwise agreed, they shall also apply to the delivery of spare parts and to repairs and assembly work.

### II. Quotations, conclusion of contract

1. Our quotations, as well as the documentation associated with a quotation, are only applicable for the conclusion of a contract if they are expressly stated to be binding quotations. Otherwise, our quotations shall not be binding. We reserve the right to make technical alterations as well as changes in shape, colour and/or weight, provided these are reasonable.
2. By placing the order, the customer makes a binding commitment that he wishes to purchase the ordered product. A binding contract is created when it is confirmed by Hedinger in writing or electronically with an order confirmation. Unless Hedinger receives objections from the customer within 8 working days from the dispatch of the order confirmation, the order shall be valid in the wording of the confirmation. Unless expressly agreed otherwise, the contract shall be binding subject to the prompt delivery of the appropriate goods by our own suppliers; if the supplier named by Hedinger is unable to execute the order, or fails to execute it to an acceptable standard or on time, then Hedinger is entitled to rescind the contract without being liable for damages. The customer shall be informed without delay about the unavailability of the service. Any payments that may already have been made will be reimbursed.
3. If the order is placed electronically by the customer, Hedinger shall not be obliged to confirm the order electronically. Nor is Hedinger obliged to provide technical means with which the customer can recognise and correct input errors before placing the order. Furthermore, Hedinger is not obliged to supply the customer with specific information about the contract by electronic means before the order is placed electronically. Hedinger points out that its normal terms of contract, including Hedinger's General Terms of Business, can be accessed on the Hedinger Homepage under [www.hedinger.com](http://www.hedinger.com). In so far as Hedinger confirms the electronic order with an electronic order confirmation, the contractual terms of this order shall be stored in retrievable and reproducible form.
4. Tender documents, plans, drawings, cost estimates and all technical documents - including in electronic form - must be treated as confidential information and may not be passed on, published, copied or made available in writing to third parties. They must be handed over on request or deleted. The same applies to software provided.

### III. Scope of delivery

1. With respect to the scope of the delivery, our written or electronic order confirmation shall apply exclusively, and be solely binding. Additions, subsidiary agreements or changes will also be confirmed by Hedinger in writing or electronically. Delivery shall be made as a whole, with a minimum invoice amount of CHF 30.-- being charged to cover costs if the delivery per se amounts to less.
2. All documents associated with the order confirmation such as computations, drawings, calculations and technical information must be understood only as approximate values and under no circumstances represent warranty commitments in a legal sense, unless they are expressly referred to as such in the order confirmation.
3. Hedinger can make technical alterations that result in improvements, provided that these do not lead to price increases.
4. The customer must take delivery of ordered goods and services on the agreed date. If delivery is not taken within the time limit, Hedinger is entitled to demand from the customer the costs incurred with the unsuccessful offer and for storing and retaining the goods. This does not affect the right to cancel the contract and to demand 20 per cent of the agreed price as flat-rate compensation.

### IV. Prices, payment and default in payment

1. The prices tendered shall be binding and apply, except by special agreement, ex Wattwil, including loading at the factory, including packaging. Value added tax shall be added to the prices at the applicable rate.
2. Payment shall be due upon the customer's receipt of the invoice, unless special payment terms have been agreed in writing. Default in payment shall arise, if a reminder has been sent, after the due date or, without a reminder, 30 days after the due date.
3. The customer must, during the period of default, add 5 per cent p.a. interest to the amount owed.
4. The customer shall not be permitted to withhold payments or offset any counterclaims contested by Hedinger, unless they have been bindingly determined by a court of law.
5. If Hedinger learns of a substantial deterioration in the customer's business situation, then Hedinger shall have the right to request advance payment in full or in part, or the provision of security, or to cancel the contract.

## V. Delivery deadline, delay in delivery

1. The delivery deadline is set out in the agreements made by the parties to the contract. Adherence to it by Hedinger assumes that all commercial and technical questions between the contractual partners are resolved in time, and that the customer has complied with all the duties incumbent upon him, as for example the procurement of all the necessary technical and official documents or permits, or making a down-payment. If he fails to do so, then the delivery deadline shall be extended proportionately.
2. The delivery deadline has been met with the dispatch of the delivery from the supplier's factory to the address indicated by the customer.
3. The delivery deadline shall be extended by an appropriate period in the event of measures taken as part of industrial disputes, in particular strikes or lockouts, as well as in the event of unforeseen impediments occurring that are beyond the control of Hedinger, as well as such impediments that demonstrably have a considerable impact on the completion or delivery of the goods. This also applies if these circumstances arise for subcontractors. Nor can Hedinger be held responsible for the above-cited circumstances if they occur during an existing delay. Hedinger will inform the customer as quickly as possible of the start and end of such impediments in significant cases.
4. With each default by the customer in meeting his contractual obligations, Hedinger shall be entitled, after the expiry of an appropriate additional dead-line, to dispose of the goods in other ways and/or to supply the customer after an appropriately extended deadline and/or to withdraw from the contract and to demand compensation for the loss incurred as a result of the non-performance. Compensation is deemed to be an amount of 20 per cent of the order value, subject to the provision of proof of more extensive losses. The loss will be offset against the down-payment made. This rule shall also apply in the event of a withdrawal from the contract where a delivery order is already in production. The customer shall be entitled to furnish evidence that such damage has not occurred, or has not occurred to the amount to the sum claimed.

## VI. Transfer of risk

1. The risk of accidental loss or accidental deterioration of the goods shall pass to the customer as soon as the goods have been handed over, or in the case of the sale including freight forwarding, as soon as the goods have been surrendered to the freight forwarder, haulage contractor or other person or institute charged with the transport. This also applies in the case of partial deliveries or where Hedinger agreed to undertake other services, e.g. the dispatch costs or delivery, assembly and installation. Upon the customer's request, Hedinger will insure the shipment, at the customer's expense, against theft, damage due to breakage, transport, fire and water as well as other insurable risks.
2. If dispatch is delayed due to circumstances for which the customer is responsible, then the risk shall pass to the customer from the day the goods are ready for shipping, although Hedinger shall be obliged to take out the insurance policies, upon the customer's request and at the customer's expense, according to the customer's demands.
3. The customer must take delivery of forwarded goods even if they exhibit minor defects, without prejudice to his warranty rights.

## VII. Reservation of ownership

1. Hedinger shall reserve its rights of ownership to the goods until complete payment of all claims has been made. On request from Hedinger, as well as in the event of the customer filing for insolvency, the contractual item that is subject to reservation of ownership must be marked visibly 'property of the company Hedinger TECH AG or Hedinger MRO AG'.
2. The customer is obliged to treat the product with care. If maintenance and inspection work is necessary, then the customer must carry these out continuously at the customer's own expense.

## VIII. Assembly, commissioning, operation and maintenance

1. The assembly, commissioning, operation and maintenance of the delivered goods and the services performed must be done in accordance with the information and instructions supplied by Hedinger, as well as the applicable national Standards. Warranty claims for the functioning of installations that were not carried out by Hedinger can only be asserted if Hedinger has agreed in writing to work by third parties.
2. Acceptance is deemed to have occurred when the customer has accepted the contractual item without reservation or put it into operation.

## IX. Warranty and non-performance

1. Hedinger warrants subject to the other provisions of the Contract, good title to and the unencumbered use of the Goods; free of defects in materials and workmanship and that Services provided by Hedinger or Hedinger's Affiliates will be performed with all reasonable skill, care and due diligence and in accordance with good engineering practice. Hedinger will make good, by repair or at Hedinger's option by the supply of a replacement part or parts, any defects which, under proper use, care and maintenance, appear in Goods Hedinger's Affiliates manufacture and which are reported to Hedinger within 24 calendar months after their delivery, 90 days after delivery in the case of Consumables and spare parts (the "Warranty Period") and which arise solely from faulty materials or workmanship, provided always that defective items are returned to Hedinger at Customer's cost carriage and insurance prepaid within the Warranty Period. Replaced items shall become the property of Hedinger. Repaired or replacement items - provided that the complaint is justified - will be delivered by Hedinger at Hedinger's cost to Customer's site. Any further claim due to a defective delivery item, in particular for compensation for damages, shall be deemed to have been mutually excluded. In particular, Hedinger shall not be liable for consequential damages (interruption of business, etc.) The warranted amount shall in all cases be limited to the invoiced amount. Hedinger will correct defects in Services provided by Hedinger and reported to Hedinger within 90 days after completion of such Services. Goods or Services repaired, replaced or corrected in accordance with this Clause IX 1. shall be subject to the foregoing warranty for the unexpired portion of the Warranty Period or for ninety days from the date of their return to Customer (or completion of correction in the case of Services), whichever expires the later.

2. Goods or Services sourced by Hedinger from a third party (not being an Hedinger Affiliate) for resale to Customer shall carry only the warranty extended by the original manufacturer.
3. Notwithstanding Clauses IX 1. and IX 2., Hedinger shall not be liable for any defects caused by: fair wear and tear; materials or workmanship made, furnished or specified by Customer; noncompliance with Hedinger's storage, installation, operation or environmental requirements; lack of proper maintenance; any modification or repair not previously authorised by Hedinger in writing; nor the use of non-authorised software or spare or replacement parts. Hedinger's costs incurred in investigating and rectifying such defects shall be paid by Customer upon demand. Customer shall at all times remain solely responsible for the adequacy and accuracy of all information supplied by it.
4. The foregoing constitutes Hedinger's sole warranty and Customer's exclusive remedy for breach thereof. No representations, warranties or conditions of any kind, express or implied, shall apply as to satisfactory quality, merchantability, fitness for any particular purpose or any other matter with respect to any of the Goods or Services.

#### **X. Liability**

1. Hedinger shall only be liable for damages not caused by the goods – regardless of their legal basis – in case of wilful intent or gross negligence by its organs or executive staff, in case of damage resulting from loss of life, physical injury and damage to health, in the case of defects that have been maliciously concealed or whose absence Hedinger has guaranteed, as well as for defects in the goods in so far as a liability exists under the Product Liability Act for personal injury or damage to property for privately used items. Hedinger shall not be liable in cases of any minor negligent breach. Any further claims are excluded.
2. Claims for damages by the customer will be time-barred after one year from the delivery of the goods. This does not apply if Hedinger can be accused of malicious intent.

#### **XI. Use of software**

1. If the scope of the delivery includes software, the customer shall be granted a non-exclusive right (licence) to use the supplied software, including the associated documentation. It is provided for use with the specified delivery item. Use of the software on more than one system is prohibited. The customer may only copy, modify, translate or convert from the object code to the source code on a legally permitted scale. The customer undertakes not to remove manufacturers' details – in particular copyright notices – or to change these without prior express permission by Hedinger. Hedinger or the software supplier shall retain all other rights to the software and the documentation, including the copies. The granting of sub-licences is not permitted.

#### **XII. Return of goods**

1. Hedinger is not obliged to accept goods returned by the Customer due to incorrect orders or orders with excessive quantities stated. However, if such orders are accepted by Hedinger as a gesture of goodwill, then a charge of 30 percent of the selling price, or a minimum amount of CHF 100.-- shall be made when the returned goods are undamaged and when the goods are in their original packaging, i.e. the goods have not been used in any way. However, if the goods returned are either damaged or have been used, then their value shall be assessed and this amount reimbursed to the Customer. If the Customer does not agree to this amount, then he is free to either collect the goods, or to allow the goods to be collected, in which case the amount to be reimbursed shall be cancelled.
2. If goods consisting of several positions and obtained under special conditions are returned, they will only be refunded taking into account these conditions. A handling fee of 30 percent or a minimum amount of CHF 100.-- will be deducted.
3. The return of special versions will generally no longer be accepted.

#### **XIII. Place of performance, applicable law, place of jurisdiction**

1. Place of performance for deliveries and payments shall be Wattwil.
2. For all legal relations between Hedinger TECH AG & Hedinger MRO AG and the customer, Swiss law shall apply exclusively.
3. The place of jurisdiction shall be the registered domicile of Hedinger TECH AG & Hedinger MRO AG., i.e., the courts with jurisdiction for Wattwil.