

### § 1 General Provisions, Application

(1) All deliveries, services and offers of LIFTKET Hoffmann GmbH (hereinafter also referred to as "Supplier") shall be made exclusively based on these General Terms and Conditions of Delivery. These are an integral part of all contracts that Supplier concludes with its contractual partners (hereinafter also referred to as "Client") regarding the deliveries and services offered by Supplier. They shall also apply for all future deliveries, services or offers to Client, even if they are not separately agreed again. They shall not apply if Client is not an entrepreneur within the meaning of the German Civil Code [Bürgerlichen Gesetzbuch ("BGB")], not a legal person under public law and not a special fund under public law.

(2) Client's or a third party's terms and conditions shall not apply, even if Supplier does not object to them separately. Even if Supplier makes reference to a letter that contains Client's or a third party's terms and conditions or refers to such, this shall not constitute an agreement to apply those terms and conditions.

### § 2 Offer and Contract Conclusion

(1) All of Supplier's offers are without engagement and non-binding, unless they are expressly identified as being binding or contain a specific term of acceptance. Supplier may accept purchase orders / orders within fourteen days after receipt. Client's purchase orders shall always require a written order confirmation for the conclusion of a contract.

(2) The contract concluded in writing, including these General Terms and Conditions of Delivery alone shall be authoritative for the legal relationships between Supplier and Client. This reproduces completely all informal agreements between the contractual parties on the subject matter of the contract. Supplier's verbal undertakings before the conclusion of this contract are legally non-binding and oral agreements of the contractual parties shall be replaced by the written contract, unless they expressly indicate in each case that they shall continue to apply with binding force. For the observance of the requirement as to writing § 2 para. (3) last sentence shall apply.

**(3) Supplements and amendments of the agreements reached including these General Terms and Conditions of Delivery shall only be legally valid if recorded in writing. With the exception of managing directors and holders of special statutory powers [Prokurist] Supplier's employees are not entitled to reach oral agreements deviating from this or issue guarantees.** For observance of the requirement as to writing, the transmission by telecommunication shall be sufficient; an e-mail that is not provided with a qualified electronic signature in accordance with the German Signatures Act [Signaturgesetz] shall only observe the requirement as to writing if the copy of the signed declaration is attached to this.

(4) Supplier's details on the subject matter of the delivery or service (e.g. weights, dimensions, utility values, load capacity/resilience, tolerances and technical data) as well as our descriptions of the same (e.g. drawings and illustrations) are only approximately applicable, unless the usability for the contractually intended purpose requires an exact match. They are not guaranteed property characteristics but descriptions or identifications of the delivery or service. Customary deviations and deviations that occur due to legal regulations or constitute technical improvements, as well as the replacement of components by equivalent parts are admissible if they do not impair the usability for the contractually intended purpose

(5) Supplier reserves the ownership of or copyright to all offers and estimates of costs submitted by it as well as drawings, illustrations, calculations, prospectuses, catalogues, models, tools and other documents and devices made available to Client. Client may not make these items available either as such or as regard content to third parties, disclose them, use them by itself or through a third party, or make copies of these without Supplier's express consent. At Supplier's request, it must return these items completely to Supplier and destroy any copies made if they are no longer required in the ordinary course of business or if negotiations do not lead to the conclusion of a contract. Excepted from this is the storage of data made available electronically for the purpose of usual data backup. If documentation and/or software is included in the scope of delivery, Client shall receive a non-exclusive, non-sublicensable, transferable only in unchanged form and only together with the delivery item right of use restricted for the assembly, operation and preventive maintenance of the delivery item.

### § 3 Prices and Payment

(1) The prices apply for the scope of delivery and service indicated in the order confirmations. Additional or special services shall be billed separately. The prices are quoted in EUROS ex works plus packaging and statutory sales tax. In the case of export deliveries, the Client must pay directly the customs duties as well as fees and other public charges.

(2) If the delivery is to be made only more than four months after the conclusion of the contract, Supplier may increase the agreed contract price appropriately, taking into consideration increases of material, personnel and/or energy costs that have arisen in the meantime.

(3) Unless agreed in writing otherwise, the invoicing shall occur upon provision for the roll-out in Supplier's works and must be paid without any deduction within fourteen (14) days. If Client does not pay on the due date, the outstanding amounts shall bear interest at 5% p.a. as from the day of the due date; Supplier reserves the right to assert higher interest and further damage in case of delay.

(4) The set-off with Client's counter-claims or the retention of payments concerning such claims is admissible only if the counter-claims are undisputed or recognised by declaratory judgement.

(5) Supplier is entitled to carry out or perform still outstanding deliveries or services only against prior payment or in return for the provision of security when circumstances become known to it after the conclusion of the contract which are likely to reduce significantly Client's creditworthiness and through which the payment of Supplier's outstanding receivables by Client under the respective contractual relationship (including under other individual orders, for which the same master agreement applies) will be jeopardised.

## § 4 Delivery and Delivery Period

- (1) Deliveries shall be made ex works.
- (2) Periods and deadlines for deliveries held out in prospect by Supplier shall always be considered to be only approximate, unless a fixed period or a fixed deadline is assured or agreed. If shipment was agreed, the delivery periods and delivery deadlines refer to the date of the delivery to the freight forwarder, carrier or third party otherwise commissioned with the transport.
- (3) Supplier may – notwithstanding its rights concerning default by Client – request from Client an extension of delivery and performance periods or a postponement of delivery and performance deadlines by the period in which Client does not meet its contractual obligations to Supplier.
- (4) Supplier is not liable for impossibility of the delivery or performance or for delays of delivery or performance if these have been caused by force majeure or other at the time of the conclusion of the contract unforeseeable occurrences (e.g. operational disruptions through machine malfunction, difficulties in the material and energy procurement, transport delays, strikes, lawful lockouts, defects to labour, energy or raw materials, difficulties in the procurement of necessary official authorisations, official measures or the omitted, incorrect or untimely supply by Supplier) that are outside of Supplier's responsibility. If such occurrences make it significantly more difficult for Supplier or impossible to make the delivery or perform the service and the hindrance is not merely temporary in nature, Supplier is entitled to withdraw from the contract. In the event of hindrances of a temporary nature, the delivery and performance periods shall be extended or the delivery or performance deadlines shall be postponed by the time period of the hindrance plus an appropriate run-up period. If Client cannot reasonably be expected to accept the delivery or service as a result of the delay it may withdraw from the contract through a declaration in writing to Supplier without undue delay.
- (5) Supplier is entitled to make part deliveries if these can reasonably be accepted from Client.
- (6) If Supplier is in default with a delivery or service Client shall have a claim in exclusion of further claims for liquidated damages, if it has incurred damage through the default. The liquidated damages shall be 0.2 % per completed week of the default of the value of that part of the deliveries that cannot be used in good time or appropriate as a result of the default, however in total no more than 5 % of the contract price for the delivery item in default. For safeguarding the claim, the liquidated damages shall be asserted against Supplier no later than one month after delivery of the delivery item; otherwise the claim shall be excluded. This shall not affect the right to withdraw after fruitless expiry of a grace period set by Supplier.
- (7) If it becomes impossible for Supplier to make the delivery or perform the service, for any reason whatever, Supplier's liability for damages shall be restricted in accordance with § 8 of these General Terms and Conditions.
- (8) The application of section 348 German Civil Code [HGB] is excluded.

## § 5 Place of Performance, Shipment, Packaging, Transfer of Risk, Acceptance

- (1) The place of performance for all obligations under the contractual relationship shall be Wurzen, Germany, unless provided otherwise.
- (2) The shipping method and the packaging shall be subject to Supplier's due discretion.
- (3) The risk shall be transferred to the freight forwarder, carrier or third party otherwise commissioned to carry out the transport no later than at the time of the delivery of the delivery item (whereby the start of the transshipment operation shall be relevant). This also applies if part deliveries are made or the Supplier has taken over further services (e.g. shipment). If the shipment or the delivery is delayed as a result of a circumstance whose cause lies with Client, the risk shall be transferred on the day on which the delivery item is ready for shipment and Supplier has notified this to Client. Any agreement of Incoterms shall take effect only for a deviating regulation for the transport and the bearing of the transport costs. A change of the transfer of risk, insurance obligation by Supplier, customs clearance by Supplier as well as further consequences indicated in Incoterms shall not be caused through this.
- (4) Storage costs after the transfer of risk shall be borne by Client. In the event of storage by Supplier the storage costs shall be 1 % of the contract price of the delivery items to be stored per each completed week. The assertion and the provision of evidence of further or less storage costs remains reserved.
- (5) The consignment shall be insured against theft, breakage transport, fire and water damage or other insurable damage by Supplier only at Client's express request and at its expense.
- (6) If an acceptance has to take place, the delivery item shall be considered as accepted when
  - the delivery is completed,
  - Supplier has notified this to Client, referring to the acceptance fiction under this § 5 (6) and has requested it to accept the delivery item,
  - twelve (12) working days have passed since the delivery or Client has commenced with a use of the delivery item (e.g. has put the delivered plant into operation) and in this case six (6) working days have passed since delivery, and
  - Client has omitted to accept the delivery item within this period for a reason other than that of the defect notified to Supplier, which makes it impossible to use or significantly impairs the use of the delivery item.

## § 6 Warranty, Defects in Quality

- (1) The limitation period for warranty claims shall be one year from delivery. This period shall not apply for Client's claims for damages concerning the injury to life, limb or health or arising from intentional or grossly negligent breaches of obligations of Supplier or its vicarious agents, which shall become time-barred under the statutory regulations in any case. In the case of supplementary performance, the limitation period shall not start again. If any guarantee of durability was granted by Supplier, the limitation period for claims based on this shall be 6 months, starting from the emergence of the defect, however no later than from the end of the guarantee of durability.

(2) The delivery items must be inspected carefully without undue delay after the delivery to Client or to a third party designated by it. They shall be considered to be approved by Client concerning obvious defects or other defects that would have been identifiable if there had been a careful inspection without undue delay if Supplier does not receive a written notice of defects within seven working days after delivery. Concerning other defects, the delivery items shall be considered to be approved by Client if the notice of defects is not received by Supplier within seven working days after the time when the defect first showed itself. At Supplier's request, a delivery item objected must be sent back freight paid to Supplier. If a notice of defects is justified, Supplier shall reimburse the costs of the cheapest shipment route; this shall not apply if the costs increase because the delivery item is located in a different place than the place of the proper use. The place of an intended further sale shall not correspond to the place of the proper use. Supplier must only bear assembly and dismantling costs if the requirements of fault-based liability for damages are met.

(3) In the event of defects in quality of the delivery item or performances Supplier is obliged and entitled initially to rectify defects or provide a replacement delivery in accordance with its choice to be made within an appropriate period. In the case of a failure, i.e. the impossibility, unreasonableness, refusal or inappropriate delay of the rectification of defects or the provision of a replacement delivery Client may withdraw from the contract or reduce the purchase price appropriately.

(4) If the defect is based on Supplier's fault Client may request damages subject to the requirements provided in § 8.

(5) The warranty shall expire when Client alters the delivery item or has this altered by a third party without Supplier's consent and thereby makes it impossible or unacceptable for Supplier to rectify defects. In any case, Client must bear the additional costs of the rectification of defects arising through the alteration.

## § 7 Property Rights

(1) Supplier in accordance with this § 7 shall be responsible only for the delivery item being free from third party industrial property rights or copyrights in the Federal Republic of Germany or if a place of delivery outside of Germany was agreed in the country of the place of delivery. Each contractual party shall notify the other contractual party in writing without undue delay if claims for the infringement of such rights are asserted against it.

(2) In case the delivery item infringes a third party's industrial property right or copyright, Supplier shall modify or exchange the delivery item, at its choice and at its expense, in such a way that third party rights are no longer infringed, but the delivery item continues to fulfil the a contractually agreed functions, or procure the right of use to Client through the conclusion of a licence agreement. If Supplier does not succeed in this within an appropriate period, Client is entitled to withdraw from the contract or reduce the purchase price appropriately. Any Client's damages claims shall be subject to the restrictions of § 8 of these General Terms and Conditions.

(3) In the event of legal infringements through other manufacturers' delivery items delivered by Supplier, Supplier, at its choice, shall assert its claims against the manufacturers and upstream suppliers for Client's account or assign these claims to Client. Claims against the Supplier in these cases in accordance with this § 7 shall exist only if the judicial enforcement of the above-mentioned claims against the manufacturers and upstream suppliers was unsuccessful or is without any prospect of success, for example due to insolvency.

## § 8 Liability for Damages for Fault

(1) Supplier's liability for damages, for any legal reason whatever, in particular due to impossibility, defective or mistaken delivery, breach of contract, infringement of obligations in contractual negotiations and tort, if this concerns fault in each case, shall be restricted in accordance with this § 8. For Supplier's liability for damage caused by delay, § 4 para. 6 of these General Terms and Conditions shall apply in the case of simple negligence by Supplier; otherwise these § 8 shall apply.

(2) Supplier is not liable in the case of simple negligence of its executive bodies, legal representatives, employees or other vicarious agents unless an infringement of obligations going to the root of the contract is concerned. The obligation to deliver the delivery item in good time, its freedom from defects in title as well as in quality which more than insignificantly impair its functional capability or fitness for use as well as consultation, protection and duty of care obligations that are intended to enable Client to use the delivery item contractually or which aim to achieve the protection of life and limb of Client's personnel or the protection of its ownership against significant damage going to the root of the contract.

(3) If Supplier is liable for damages on the merits, this liability shall be limited to damage that Supplier has anticipated as a consequence of an infringement of the contract upon the conclusion of the contract or which it ought to have anticipated if it had applied customary care. Indirect damage and consequential damage that are the consequence of defects of the delivery item may be compensated only insofar as such damage is typically to be expected when using the delivery items properly.

(4) In the case of liability for simple negligence Supplier's obligation to pay compensation for damage to property and resulting further pecuniary losses shall be limited to an amount of EUR 1,000,000.-. restricted for each damage event, even if this concerns an infringement of obligations going to the root of the contract.

(5) The above-mentioned exclusions and restrictions of liability shall apply to the same extent for the benefit of Supplier's executive bodies, legal representatives, employees and other vicarious agents.

(6) If Supplier provides technical information or acts as an adviser and this information or advice does not belong to the contractually agreed scope of service owed by it, this shall occur free of charge and with the exclusion of any liability.

(7) The restrictions of this § 8 shall not apply for Supplier's liability for intentional conduct, for any guaranteed property characteristics, for injury to life, limb or health or under the German Product Liability Act [Produkthaftungsgesetz].

## § 9 Reservation of Ownership

- (1) The reservation of ownership agreed below shall serve to provide security for all of Supplier's currently existing and future claims against Client under the delivery relationship existing between the contractual parties regarding lifting equipment and their auxiliary equipment (including current account balance claims from a current account relationship restricted to this delivery relationship).
- (2) The delivery items delivered to Client by Supplier shall remain Supplier's property up until the complete payment of all claims. The delivery items as well as goods replacing them and covered by the reservation of ownership in accordance with the following provisions are hereinafter referred to as "Goods subject to reservation of ownership".
- (3) Client shall store the Goods subject to reservation of ownership safely for Supplier free of charge.
- (4) Client is entitled to process and sell the Goods subject to reservation of ownership in the ordinary course of business until the occurrence of the enforcement event (paragraph 9). Pledging and assignments as security are inadmissible.
- (5) If the Goods subject to reservation of ownership are processed by Client, it is agreed that the processing shall occur on behalf and for the account of Supplier as manufacturer and Supplier shall acquire the ownership directly or - if the processing is done from several owners' materials or the value of the processed item is higher than the value of the Goods subject to reservation of ownership – co-ownership (fractional ownership) of the newly created item in proportion to the value of the Goods subject to reservation of ownership to the value of the newly created item. In case no such acquisition of ownership by Supplier occurs, Client already now assigns its future ownership or – in the above proportion – co-ownership of the newly created item as security to Supplier. If the Goods subject to reservation of ownership are associated or inseparably mixed with other items into a uniform item and one of the other items is to be regarded as the main item, Supplier, if the main item belongs to it, shall transfer a proportionate part of the co-ownership of the uniform item in the proportion indicated in sentence 1 to Client.
- (6) In the case of a resale of the Goods subject to reservation of ownership, Client already now assigns as security the resulting claim against the acquiring party - with Supplier's co-ownership of the Goods subject to reservation of ownership proportionately in accordance with the co-ownership share - to the Supplier. The same shall apply for other claims that replace the Goods subject to reservation of ownership or arise otherwise concerning the Goods subject to reservation of ownership, such as e.g. insurance claims or tort claims in the event of loss or destruction. Supplier revocably authorises Client to collect the claim assigned to Supplier on its own behalf. Supplier may revoke this collection authorisation only in the enforcement event.
- (7) If third parties access the Goods subject to reservation of ownership, in particular through attachment, Client shall draw attention to the Supplier's ownership without undue delay and inform Supplier about this, in order to enable it to enforce its ownership rights. If the third party is not able to reimburse judicial and extrajudicial costs arising in this connection, Client shall be liable for this to Supplier.
- (8) Supplier shall release the Goods subject to reservation of ownership as well as the items or claims replacing these if their value exceeds the amount of the secured claims by more than 50 %. The selection of the item to be released accordingly shall lie with the Supplier.
- (9) If Supplier withdraws from the contract in the case of Client's conduct in breach of the contract - in particular default of payment - (enforcement event) it shall be entitled to request the return of the Goods subject to reservation of ownership.
- (10) Supplier is entitled to take possession of the Goods subject to reservation of ownership and dispose of these if Client does not fulfil its contractual obligations, in particular in default of payment. This does not constitute a withdrawal from the contract. Supplier's further rights shall remain unaffected as well as any rights of an insolvency administrator in the case of insolvency of Client.

## § 10 Final Provisions

- (1) If Client is a merchant, a legal person under public law or a special fund under public law or if it does not have any general place of jurisdiction in the Federal Republic of Germany, the place of jurisdiction for any and all disputes under the business relationship between Supplier and Client at Supplier's choice shall be Wurzen, Germany or Client's registered office. For actions against Supplier in these cases however Wurzen, Germany shall be the exclusive place of jurisdiction. Mandatory statutory provisions on exclusive places of jurisdiction shall not be affected by this regulation.
- (2) The relationships between Supplier and Client shall be governed exclusively by the law of the Federal Republic of Germany. The provisions of private international law that would refer to a different law than that of the Federal Republic of Germany are excluded. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) shall be excluded.
- (3) If the contract or these General Terms and Conditions contain any loopholes, the legally valid regulations that the contractual parties would have agreed in accordance with the economic objectives of the contract and the purpose of these General Terms and Conditions of Delivery if they had known of the loopholes shall apply.
- (4) Should any individual provisions of the contract or these General Terms and Condition be or become invalid in whole or in part, this shall not affect the other provisions. The wholly or partly invalid provision shall be replaced by a provision which the contractual parties would have agreed in accordance with the economic objective of the contract and the purpose of these General Terms and Conditions of Delivery if they had known of the invalidity.