

## GENERAL BUSINESS TERMS AND CONDITIONS AND COMPLAINT HANDLING RULES

of the **HESTEGO a.s.** Company, with its Registered Office in Vyškov, Na Nouzce 470/7, Postal Code 682 01, Company ID No.: 634 75 073, incorporated in the Commercial Register held by the Regional Court in Brno, Section B, File 6368 (hereinafter referred to as the “**Contractor**”)

### 1. INTRODUCTORY PROVISIONS

- 1.1. These General Business Terms and Conditions and Complaint Handling Rules (hereinafter referred to as the “**GBTC&CHR**”) regulate the mutual rights and obligations of the Parties in connection with or based on work contracts, purchase agreements, service contracts and other similar types of contracts and also framework agreements and related orders concluded between the Contractor and its business partner as a customer or a buyer (hereinafter referred to as the “**Customer**”).
- 1.2. These GBTC&CHR comprise an integral part of every Contractor’s offer or of any contract concluded between the Contractor and the Customer. These GBTC&CHR shall also be applicable in the event that a reference to them is given in the Contractor’s confirmation of the Customer’s order.
- 1.3. These GBTC&CHR represent exclusive business terms and conditions that are applicable between the Customer and the Contractor and they exclude the application of any Customer’s business terms and conditions, unless the Contractor has expressed its prior written consent with the application of the Customer’s business terms and conditions.
- 1.4. In order to improve the quality of services provided, in response to developments in the regulatory environment and in technology development and also with regard to the Contractor’s commercial policy, the Contractor shall be entitled to unilaterally change these GBTC&CHR in a reasonable extent, especially in relation to the form of communication between the Parties, the method of invoicing, the range of products and services offered, complaints and the manner of the termination of the contract (hereinafter referred to as the “**Change**”). To this end the Contractor shall be entitled to propose the Customer a Change in writing no later than two (2) months prior to the date on which the Change in accordance with the proposal is to take effect. Should the Customer not agree with the Change, it shall be entitled to withdraw from the contract in writing with effect as of the day preceding the proposed effective date of the Change. Written notice must be delivered to the Contractor at least one (1) month prior to the proposed effective date of the Change. Should the notice not be delivered to the Contractor within the period referred to above, the Change shall become effective as of the proposed effective date and it becomes binding for both the Parties.

### 2. CONCLUDING THE CONTRACT

- 2.1. The contract between the Parties shall be deemed as concluded (i) by signing the contract by both the Parties or (ii) by the Contractor’s confirmation of the Customer’s order.

- 2.2. The Customer may make a non-binding inquiry for the Contractor's services, based on which the Contractor may prepare a quotation and a bid, which will be sent to the Customer.
- 2.3. The Customer orders partial deliveries by means of individual orders (which hereinafter are individually referred to as the "Order") that comprise the following elements: (i) specification of the requisite goods and/or of the work; (ii) the number of items required; (iii) the requisite delivery date; (iv) the price; (v) the Customer's number; (vi) the identification of the person who issued the Order, together with information regarding his/her name, surname and function, and (vii) the date on which the Order was issued. If required, drawings or sketches comprise an integral part of the Order. Confirmation of the Order by the Contractor results in a partial contract.
- 2.4. Unless agreed otherwise the Contractor shall confirm or reject the Order within five (5) working days. The Contractor's confirmation of the Customer's Order will comprise a brief recap of the contractual conditions.
- 2.5. Should the Order contain different conditions than those contained in the offer and/or in the GBTC&CHR, the Contractor shall be entitled to make changes to the Order when accepting it and to bring it in compliance with the GBTC&CHR, thereby making a modified Order confirmation. A modified Order confirmation is acceptable provided that the Customer does not refuse this change to the Order within three (3) working days from the date of the receipt of the modified Order confirmation.

### **3. THE SUBJECT OF PERFORMANCE**

- 3.1. The Subject of the performance is the delivery of goods or the implementation of the work (which are collectively referred to as the "Products") as has been agreed in the contract or specified in the Order confirmed by the Contractor or in the Contractor's offer that has been accepted by the Customer under the terms that have been stipulated in these GBTC&CHR.
- 3.2. Unless the quality, characteristics or design of the Products are expressly agreed supplied are the Products that are suitable for the purposes specified in the contract, in the purchase order or in the offer; otherwise, in accordance with the Contractor's best knowledge, they are assumed as being intended for the usual purpose.
- 3.3. The Customer undertakes to provide the Contractor, without undue delay, with all the necessary cooperation for the proper fulfilment of the Contractor's obligations.
- 3.4. The Customer undertakes to observe the proper conditions for storage, for professional assembly and handling and for the maintenance and the operation of the Products in accordance with the Contractor's instructions that are available on the Contractor's website at <http://www.hestego.cz/krytovani-stroju/teleskopicke-kryty/>. Coated panels must be stored on a pallet in a dry environment. In the event of packaging using stretch film, any coated products that are wrapped in this manner must not be stored in direct sunlight.

### **4. DELIVERY OF GOODS**

- 4.1. The Contractor shall deliver the Products to the Customer at the agreed time and place of delivery (and after the clarification of all the relevant technical and business matters) and the Customer undertakes to accept them. Unless the place of delivery is expressly agreed, it shall be deemed to be agreed as at the Contractor's premises.

- 4.2. The delivery period shall be extended by at least the length of any time delay that occurs:
- 4.2.1. if the HESTEGO a.s. Company does not receive information necessary for the fulfilment of the contract in a timely manner or if the Customer requires additional changes to the original Order thereby causing a delay in the delivery of the goods or the provision of the agreed services; or
  - 4.2.2. if there are any obstacles that the HESTEGO a.s. Company is unable to overcome despite its significant efforts to do so, regardless of whether these obstacles are on its part or on the part of the Customer or another supplier. These obstacles may include, for example, epidemics, mobilisation, war, riots, operational failures, accidents, strikes, delayed or faulty sub-deliveries, official inaction and natural disasters. or if the Customer or a third party fails to perform its required tasks or to fulfil its contractual obligations, specifically in relationship to the payment terms.
- 4.3. Unless agreed otherwise, the Contractor will pack the Product in a manner compliant with the Contractor's standard.
- 4.4. Unless expressly agreed in the contract or in the Order, it is understood that the supply of the Products does not represent a fixed liability pursuant to §1980 of the Commercial Code.
- 4.5. The Customer undertakes to accept the Products at the place of delivery in the required manner and subsequently, without delay, implement their quality control (including the usual technical inspection of the Product's properties, e.g. checking the parameters of the thickness of the varnish coating, its gloss and its colour shades, etc.) and quantity control by an authorised employee and to acknowledge the receipt of the Products on the carrier's delivery note. In the event that upon the receipt of the Product the Customer fails to specify on the delivery note that there were any defects, it will be considered that the Products delivered were free of any obvious defects and thereby the Customer will not subsequently be entitled to claim for any obvious defects that the Products have.
- 4.6. Minor defects and unfinished work, which as such do not prevent the utilisation of the Products, do not constitute grounds for the Customer's rejection of the acceptance of the Products.
- 4.7. The risk of any damage to the goods passes to the Customer at the moment at which the Contractor hands the Products over to the carrier or to another entity that has been designated by the Customer. In the event that based on the Customer's instructions or for other reasons that are not related to the Contractor the transfer to the carrier is postponed, any risk of damage to the Products shall pass to the Customer immediately after the goods leave the storage to be delivered. From the time at which the Products leave the storage they will be stored at the Customer's own expense and risk.
- 4.8. Unless agreed otherwise, ownership rights to the Products shall be passed to the Customer on the day of the completed payment of the cost of the Products, including the statutory value added tax.
- 5. PRICE AND PAYMENT TERMS**
- 5.1. The Price of the Products in accordance with the Contract is a fixed price and does not include the value added tax, which will be added to the price in the amount stipulated by the relevant legislation. Unless contractually agreed otherwise, the goods will be delivered under

the INCOTERMS 2010 terms of delivery. Unless agreed otherwise, the purchase price does not include the price of shipping containers, packing, loading on means of transport nor the cost of other charges, e.g. a tax, duty, insurance etc. All these costs shall be borne by the buyer.

- 5.2. The Customer is obliged to pay the agreed Price of the Products, including any additional costs for packaging, transportation, insurance or assembly, unless it has been expressly stipulated that these costs are included in the price, based on an invoice that meets the requirements of a tax document pursuant to Act No. 235/2004 Coll., on the Value Added Tax, as amended.
- 5.3. The Contractor is entitled to demand an advance on the Price of the Products from the Customer even prior to the commencement of their production. In the event of the Customer delaying with the advance payment the Contractor may postpone the time of delivery in accordance with the length of the Customer's delay. The Contractor is also entitled to withdraw from the contract for the delivery of the Products for which no advance has yet been paid.
- 5.4. Should the buyer be repeatedly in default with its payment obligations or should its financial situation deteriorate substantially the Contractor shall be entitled to shorten the period for payment of the issued invoices to 14 days. In such cases the Contractor is entitled to also withhold pending deliveries of all sales contracts, without breaching the Contract or the right to withdraw from them.
- 5.5. Unless agreed otherwise, the invoice is due 30 days from the issuance of the invoice; the invoice will be usually issued within 15 days after the delivery of the Products. In the case of partial deliveries, the Contractor shall be entitled to issue an invoice for the price of the partial performance.
- 5.6. The price will be paid by means of a transfer to the Contractor's account that is indicated on the invoice. If a variable and/or a specific symbol are provided on the invoice, the Customer undertakes to refer to these details when making the relevant payment. Understood as the date of the payment of the monetary consideration is the date of the crediting of the amount due to the Contractor's account.
- 5.7. In the event of any default in regard to the payment of any amount that has already been invoiced, the Contractor shall be entitled to require from the Customer interest on the late payment in the amount of 0.05% of the outstanding amount for each day of delay until the payment has been completed in full.
- 5.8. In the event of the Customer's delay in regard to the payment of any amount invoiced, the Contractor shall be entitled to suspend the fulfilment of any of the Customer's additional Orders until the payment of all the Customer's debts to the Contractor has been made; in this case the Contractor is not considered as being in default with its performance.
- 5.9. Should the price of the Products negotiated between the Parties in a partial purchase contract or a confirmed order is determined in a currency other than Czech crowns and should the exchange ratio of both currencies change causing a fall in the price of the Product expressed in Czech crowns of more than 2% compared with the price of the Product expressed in Czech crowns as of the date of the conclusion of the partial purchase contract, the Contractor shall be entitled to additionally charge for the difference in prices of the Products calculated in this manner. Decisive is the average exchange rates announced by the

Czech National Bank as of the date of the conclusion of the partial contract and as of the payment date of the Product Price. The Contractor is entitled to invoice an indicated increase by means of a separate invoice.

- 5.10. Should a rise in prices of raw materials needed for manufacturing the Products by more than 5% occur after the confirmation of the Orders, the Contractor shall be entitled to increase the price of Products by an amount corresponding to the increase in the price of the materials involved. The Contractor shall notify this price increase to the Customer and together with the notice it shall send the Customer the documents justifying the increase in the price of the Products due to changes in prices of materials (original and new price lists or original and new material orders, etc.). Any change in the price of the Products shall become effective as of the date of the delivery of the notice to the Customer.

## **6. DEFECTS OF GOODS, QUALITY GUARANTEE AND COMPLAINTS**

- 6.1. If the Products are delivered by the Contractor to be transported to the location designated by the Customer, the Customer shall ensure the undertaking of an inspection of the Products immediately upon their arrival at their destination. If the products are delivered at the headquarters of the Contractor, the Customer shall ensure the inspection of the Products upon their receipt by the Contractor. Failure to do so is considered as that the delivered Products were delivered free of any defects. In the event of the identification of obvious defects, the Customer shall conclusively document these defects and inform the Contractor of them in written form or by e-mail, together with photographs that document the relevant defects, no later than as of the date of the delivery of the Products. In the event of any failure to comply with these obligations the Customer shall not be entitled to claim any compensation for these obvious defects. In the event of any damage occurring to the Products supplied during their transportation, the Customer shall be obliged to carefully document this fact directly in the vehicle and with the carrier at the time of the acceptance of the goods and to draw-up a protocol that will provide a detailed description of the extent of the damage.

- 6.2. The Contractor will also provide the Customer with a guarantee for the quality of products in regard to any non-obvious defects for a period of 12 months from the date of the delivery of the Products. The guarantee shall be applicable only to defects in the Products in cases in which proper storage conditions, professional assembly, handling, maintenance and operation in accordance with the Contractor's instructions have been complied with. The guarantee does not cover wearing parts and consumables (e.g. wipers, sliders, rollers, shock absorbers, "Z" bars).

Services, repairs, cooperative production and other services are subject to the quality guarantee of 6 months, provided that the Customer adheres to the Contractor's GBTC&CHR. The warranty period starts from the delivery of the goods to the buyer or to the carrier, i.e. on the date of shipment.

- 6.3. The Contractor shall not be liable for any defects in the Products' functionality nor for damages resulting from the use of documents and materials supplied by the Customer. In the case of products which the Contractor manufactures in accordance with the documentation or materials supplied by the Customer, the Contractor is not obliged to check the accuracy, adequacy and completeness of the documentation or materials supplied by the Customer and it assumes no liability for any such documentation (or use of such materials), nor for meeting the legislative conditions for the distribution and use of such Products. Considered

as the Customer's documentation is also the Customer's documentation copied by the Contractor for the production purposes, if the basic product concept is not changed.

- 6.4. Product defect claims must be made within the warranty period, immediately after discovering the defect, but no later than seven (7) days from the date of the discovery of the defect. Complaints must be sent to the Contractor in writing and must contain an exact specification of the Product that is being claimed for (including its identification data, e.g. the drawing No., the quantity, any defects detected, the date, the method of the detection of the defect and of its manifestation). In the event of the Customer's failure to report the defect properly and in a timely manner, it will lose the right for compensation for defective performance from the Contractor.
- 6.5. If the Customer detects a defect, it is obliged to immediately implement measures to minimise any further damage to the Products or the machinery and also to prevent the occurrence of any other potential related damage.
- 6.6. If the defect is properly claimed-for by the Customer, the Contractor undertakes to carry-out an inspection of the relevant Product without undue delay. For this purpose and unless agreed otherwise the Product claimed-for will be delivered to the Contractor's premises, where it will undergo appropriate testing to determine whether the alleged defect does exist. The manner of the Product's transportation to the Contractor's plant shall be agreed between the Parties. In the event of a legitimate complaint the costs of transportation shall be borne by the Contractor. The Customer shall be obliged to provide the Contractor with all necessary cooperation in order to check the and properly remove legitimately claimed defects.
- 6.7. When accepting a claim for defective goods the Contractor will remedy any defect(s) free of charge either by repairing it or them or by delivering a new Product or the relevant part of it, based on the Contractor's decision. Should the Contractor fail to remedy the defect within 30 days from the date of making a written statement concerning the complaint, the Customer may demand a reasonable discount from the Prices of the Products in an amount that is agreed between the Parties; the Customer shall not be entitled to any discount if the delay in remedying the defect(s) occurred due to the Customer's delay in providing the requisite cooperation.
- 6.8. Checking the functionality and for any defects of the Products as well as replacing small components (e.g. wipers) and replacing worn parts may only be carried-out by the Contractor's qualified personnel or by the Client's employee who have been properly trained by the Contractor to carry-out such activities. In the latter event, the Customer must submit to the Contractor a written record of the inspection or of the replacement of worn parts within 10 days of their execution. Any unauthorised intervention to the Product that is in violation of this provision of the GBTC&CHR during the warranty period will automatically cause the expiration of the guarantee of quality.
- 6.9. Should the manual or the Contractor's instructions for use of the Product state that the Product requires regular maintenance and professional servicing, this maintenance must be carried-out or otherwise the quality guarantee will expire.
- 6.10. In the event of the occurrence of a dispute between the Parties as to whether the Product's defect is either covered by the warranty or by the Contractor's liability guarantee, the Parties shall appoint an expert or another generally recognised professional in the field who will make an assessment of the defect and determine whether or not it is one for which the

Contractor is responsible. The costs associated with the processing of an expert opinion or of the opinion of a generally recognised professional in the field shall be borne by the Party whose opinion concerning the defect, based on the expert report or opinion, was not accepted. In the event that the claim proves to be justified by an expert opinion or report the deadline for remedying the Product's defects pursuant to Article 6.7 commences on the date of delivery of this opinion or report to the Contractor.

## **7. TERMINATION OF THE CONTRACT**

7.1. The termination of the contract can only occur:

7.1.1. by the joint written agreement of both the Parties;

7.1.2. by means of a written notice for the reasons stipulated either in the contract or in the GBTC&CHR;

7.1.3. by a withdrawal from the contract for the reasons stipulated either in the contract or in the GBTC&CHR. Should either of the Parties have a reason for withdrawal, it shall first deliver to the other Party a written notice with the requirement to make amends within a reasonable grace period of not less than ten (10) working days. In the event of the expiry of that period, the relevant Party shall be entitled to withdraw from the contract without more ado.

7.2. The reasons for the Contractor's withdrawal are (i) the Customer's delay in providing the requisite cooperation necessary for the proper performance of the Contractor, (ii) the breach of the Customer's obligation to ensure the provision of the necessary rights to use the materials that have been supplied by the Customer pursuant to Article 8 or (iii) the Customer's delay in regard to the payment of any of the amounts due to the Contractor.

7.3. The reason for the Customer's withdrawal is (i) the Contractor's delay in the delivery of the Products for a period of more than 30 days or (ii) the failure to remedy any legitimately claimed defect(s) of the Product pursuant to Article 6.7 or Article 6.10 of these GBTC&CHR.

## **8. COPYRIGHT**

8.1. If the Products or their components are manufactured on the basis of documentation supplied by the Customer, the Customer shall undertake to ensure the provision of the relevant rights to use this documentation in the extent necessary and it shall also be responsible for any or all damages (including loss of profits, compensation of costs for proceedings, costs of legal representation, court and other charges) that the Contractor may incur in connection with the use of such materials, while the Customer undertakes to pay their full amount to the Contractor. The Contractor shall not be held liable for any infringement of the rights of another person in regard to any industrial or other intellectual property due to the manufacture and/or the use of the Products in accordance with the documentation provided by the Customer and pursuant to the terms of any legal system in regard to which this infringement could occur.

8.2. The drawings, the models, the technical documentation and any other technical information and documents that have been passed between the Contractor and the Customer for the purposes of the manufacture and the delivery of the Products may not be used for any other purpose without the prior express consent of the Party that provided these documents by passing them on to the other Party. Specifically these documents may not be copied, nor

reproduced, nor may they be disclosed to any third party/parties without the prior written consent of the actual Party that provided these documents.

- 8.3. Unless the Parties expressly agree otherwise, all the technological procedures, the documentation and the technical information related to the manufacture of the Products, with the exception of documents that have been supplied by the Customer represent the intellectual property of the Contractor.

## **9. CONFIDENTIALITY**

- 9.1. The Parties undertake to maintain confidentiality in regard to all the information related to the Parties that they have obtained, whether directly or indirectly, from the other Party in connection with the conclusion of the contract and with the fulfilment of the obligations under contract and to refrain from disclosing them to any third parties with the exception of their disclosure to the extent necessary for ensuring the full and proper performance of the contract. The Parties undertake to ensure the protection of Confidential Information, including ensuring that there are adequate technical and organisational means available for protecting Confidential Information of this nature and thereby ensuring its protection against any unauthorised access or unauthorised use and/or transfer. In the event of concluding a separate confidentiality agreement and/or an agreement regarding the protection of confidential information, in the case of any discrepancies the provisions of this separate agreement shall prevail over this provision concerning confidentiality.
- 9.2. Pursuant to this Article not considered as confidential information shall be: (i) information that is or that will become generally known or publicly available for a reason other than as the result of a breach of confidentiality as it is defined in this contract, (ii) information the disclosure of which is already foreseen by this contract (e.g. references), (iii) information in the case of which: (a) there is a legal obligation to disclose confidential information to a Court or to another public authority, or if either Party suspects that the other Party has committed any crime(s) against life, health, human dignity or personal freedom, (b) confidential information has been communicated to a person, who himself/herself is bound by a legal obligation of confidentiality, especially if s/he is a lawyer or another professional adviser or (c) it has been communicated in order to fulfil the obligations of this contract.

## **10. FINAL PROVISIONS**

- 10.1. Business relationships between the Parties are governed by the laws of the Czech Republic.
- 10.2. All disputes arising from the contract and/or in connection with it, which will not be remedied by negotiations between the Parties, shall be decided by the general court of the Contractor.
- 10.3. The Parties rule out the application of the provisions of §§1765, 1766 and 2594 of Act No. 89/2012 Coll., The Civil Code.
- 10.4. Unless explicitly stated otherwise, any changes made to the contract must be implemented by means of a written amendment that has been signed by both of the Parties. This does not apply in the case of changes of contact persons, whereby only a prior written notification is required, or in the event of a Change to the GBTC&CHR, which is regulated in Article 1.4 above.

These GBTC&CHR are effective as of the 1<sup>st</sup> February 2017