

General Terms and Conditions of gear-tec GmbH

1. General - Scope

1.1. These General Terms and Conditions (GTC) apply to all current and future deliveries and services of gear-tec GmbH to the customer.

1.2. Deviating, conflicting or supplementary terms and conditions of the customer shall not become part of the contract, even if they are known, unless their validity is expressly agreed in writing.

1.3. These GTC apply only to companies as defined in Section 310 Para. 1 BGB (German Civil Code).

1.4. We are entitled to use third parties to fulfil our contractual obligations.

2. Conclusion of the contract

2.1. If the order by the customer was preceded by our offer, then the contract is concluded when the order is placed. If the customer's order deviates from our offer, then the contract is only concluded if we confirm the order. If our offer is "subject to change", we can freely revoke it until such time as we receive the order.

2.2. A customer's order without a preceding offer is a binding offer. It is accepted by us by sending an order confirmation.

2.3. Unless otherwise specified in the offer, an offer from us can be accepted within 4 weeks in writing or in electronic form (email or fax). Correspondence by e-mail is preferred. If the offer is not accepted within 4 weeks, the offer expires.

3. Scope of services

3.1. The scope of the services to be provided by gear-tec is conclusively determined by the respective service offer as well as a supplementary written agreement or the written order confirmation.

3.2 When an order is placed to carry out service/repair work, repairs and services up to a repair cost of EUR 500.00 net are automatically deemed to have been ordered, in particular the replacement of wearing parts or defective components and surfaces that improve the condition.

3.3 If an imminent threat to the functionality of the system or legal interests of third parties is recognised during the service/repair work, then gear-tec is commissioned to take the necessary measures, unless expressly agreed otherwise. The measures will be invoiced on the basis of the valid prices.

3.4. Replaced parts will be handed over to the customer upon express prior request. This does not apply to exchange parts.

4. Prices and terms of payment

4.1. The amount to be invoiced for the agreed scope of services is determined by the order confirmation.

4.2. Statutory value added tax is not included in our prices; it is shown separately on the invoice at the statutory rate on the day of invoicing.

4.3. Waiting times for which we or the companies that we commission bear no responsibility (e.g. weather conditions; inadequate access routes or crane parking space; wheel, shaft and bearing seats which, despite taking every precaution during disassembly, might show pull-off abrasions or scuffing marks; unforeseen technical problems) are at the expense of the customer and can be invoiced separately.

4.4 Invoices or partial invoices are due for payment immediately without deduction. In addition, gear-tec reserves the right, after appropriate notification to the customer, to cease further fulfilment of the contract until receipt of the payments. Costs and expenses arising from the resumption of work are to be reimbursed by the customer.

4.5. The customer must check an invoice for correctness within 7 days of receipt. After this point in time, objections to the invoice are not permissible.

4.6. The customer is only entitled to set-off rights if its counterclaims have been legally established, are undisputed or have been acknowledged by us. In addition, the customer is authorised to exercise a right of retention to the extent that the customer's counterclaim is based on the same contractual relationship.

5. Customer's obligations to cooperate

5.1 The customer must support our service personnel or the service personnel of the companies commissioned by us in the execution of the agreed services to the best of its ability and at its own expense. In particular, to the extent necessary to complete the order, auxiliary personnel, aids, technical documentation and electricity including the necessary connections and other accesses are to be made available to the personnel free of charge.

5.2. The customer must take the necessary measures to protect people and property at the place of service. The customer must also inform our service personnel or the service personnel of the companies commissioned by us about existing safety regulations, insofar as these are of importance for the service personnel.

5.3 For the services to be provided on site at the customer's premises, the customer must appoint and keep available a contact person who is responsible, competent and authorised for all questions arising in connection with the execution of the order.

5.4. During the duration of a service or repair order, a secured access route to the wind turbine must be available. The customer shall indemnify gear-tec against any third-party claims upon first request.

5.5. The customer undertakes to guarantee gear-tec unhindered access to the wind turbine to carry out the work at all times.

6. Acceptance

6.1 The customer is obliged to accept the service, whether it is in the form of a repair, maintenance, commissioning or other agreed service provided by us. If the service proves not to be in accordance with the contract, we are obliged to remedy the defect in accordance with No. 8, insofar as this is possible for the respective service. This does not apply if the defect is irrelevant to the interests of the customer or is based on a circumstance that is attributable to the customer. If there is an insignificant defect, the customer cannot refuse acceptance.

6.2. If the acceptance is delayed through no fault of our own, the acceptance shall be deemed to have taken place after two weeks after notification of the completion of the service.

6.3 Our liability for recognisable defects ceases upon acceptance, unless the customer has reserved the right to assert a specific defect.

7. Retention of title

7.1. We reserve title to the purchased item and all used accessories, spare parts and replacement parts until full payment of the agreed order amount and/or until receipt of all payments from the respective contractual relationship. In the event of breach of contract by the buyer, including default of payment, we are entitled to take back the goods.

7.2. Old/defective parts that have been dismantled become our property and will be stored for 4 weeks from the time of dismantling for any inspections/diagnosis. After this period has expired, the old/defective parts will be refurbished or scrapped.

8. Warranty

8.1. The prerequisite for any warranty rights of the customer is the customer's proper fulfilment of all inspection and complaint obligations owed in accordance with Section 377 HGB (German Commercial Code).

8.2. In the event of justified complaints, we shall be entitled, at our discretion, to provide supplementary performance in the form of remedying the defect or to deliver new defect-free goods.

8.3. If the supplementary performance fails, the customer is entitled to choose between cancelling the contract or demanding a price reduction. Pursuant to Section 440 Sentence 2 of the BGB (German Civil Code), rectification is deemed to have failed after the second attempt, unless something else arises from the nature of the item or the defect or the other circumstances.

8.4. The warranty does not extend to natural wear and tear or damage that occurs after the transfer of risk as a result of incorrect or negligent handling, excessive stress, unsuitable operating equipment or due to special external influences. The warranty does not apply to wear parts such as brake pads, gaskets, coolants, lubricants, filters, lamps, batteries, or rubber dampers, which are subject to functional wear, if they are not affected by production or material defects. If improper changes or repair work are carried out by the customer or by third parties, there is no warranty for these and the resulting consequences.

8.5. Insignificant deviations from the agreed quality or insignificant impairments of usability do not constitute defects in the delivered item.

8.6. The customer's warranty claims shall become time-barred after 12 months from acceptance.

9. Liability

9.1. We shall be liable in accordance with the statutory provisions if the customer asserts claims for damages based on intent or gross negligence on our part. In the event of liability for simple negligence, gear-tec's obligation to pay compensation for property damage and the resulting further financial losses is limited to an amount of EUR 50,000.00 per claim.

9.2. Liability for culpable injury to life, limb or health remains unaffected; this also applies to mandatory liability under the Product Liability Act.

9.3. The above exclusions and limitations of liability apply to the same extent in favour of our organs, legal representatives, employees and other vicarious agents.

9.4. Unless otherwise stipulated above, liability is excluded, this applies in particular to financial losses, other consequential damages and lost profits.

10. Final provisions

10.1. An assignment of claims against us that are not purely monetary claims is inadmissible (prohibition of assignment).

10.2. Changes, additions and ancillary agreements to the contract and these GTC must be made in writing.

10.3. Should any provision of these GTC be or become invalid or should a gap become apparent, the validity of the remaining provisions shall not be affected. In this case, the parties undertake to agree or achieve the intended purpose by agreeing on a different arrangement.

10.4. The legal relationships between the parties shall be governed by German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

10.5. The place of jurisdiction is Schleswig.