

Clause 1 Application

(1) These Terms and Conditions of Delivery and Payment shall only apply vis à vis business customers, public authorities, or special funds established under public law (collectively also referred to as "Customer").

(2) These Terms and Conditions of Delivery and Payment apply exclusively to any offers, deliveries and other services. Conflicting terms provided for by the Customer shall only form part of the contractual relationship in the event and to the extent this is expressly agreed upon in writing. This consent requirement shall strictly apply, even in case we provide deliverables or services despite any knowledge of conflicting or contradicting terms and conditions of the Customer. Counter-confirmations of the customer with reference to their general terms and conditions or specific terms and conditions for the purchase of goods and/or services are hereby explicitly precluded.

(3) Individual agreements entered into by us and the Customer (including side letters, addenda and amendments) shall in any case prevail over these Terms and Conditions of Delivery and Payment. Unless proved otherwise, a written contract respectively our confirmation in writing shall determine the content of such agreement.

(4) With regard to the installation and assembly the terms and conditions of the supplier shall solely apply, even in cases where such installation and assembly services are included in any orders for machines and equipment.

Clause 2 Offers

(1) Our offers are subject to change without notice until written order confirmation.

(2) Drawings, illustrations, measurements, weights and other data are not binding unless expressly agreed in writing. The Customer shall bear any costs of subsequent amendments.

Clause 3 Prices

(1) The prices stated in our order confirmation shall be legally binding. They exclude V.A.T..

(2) Any price quotations are net in Euro. They are subject to the statutory turnover tax. The Customer shall bear any ancillary costs, such as packaging, insurance, customs duties, freight charges and other related expenses.

Clause 4 Delivery times, delays

(1) Delivery times are quoted on the basis of anticipated normal operating conditions. Unless otherwise expressly agreed in writing they shall not be legally binding..

(2) We hereby waive any responsibility and liability for delays in delivery or performance of work attributable to force majeure and/or to events seriously hindering or preventing performance of contract – including difficulties in the procurement of materials arising after our confirmation of an order, operational breakdowns, strikes, lockouts, lack of personnel, lack of transport, official requirements etc. affecting either us directly or our suppliers or their sources of supply -, even in cases where firm delivery dates have been agreed. Should any such events occur, we may either postpone delivery or performance of work for the period of the disturbance, plus a reasonable additional period to allow planning of work resumption, or to withdraw, in whole or in part, from the as yet unfilled part of the contract.

(3) Late delivery does not release from the obligation to accept delivery, subject to paragraph 5. The Customer may only claim damages if we fail to meet a reasonable grace period set by the customer.

(4) Late delivery, even in cases where firm delivery dates have been agreed, shall only lead to a default of the obligor pursuant to Section 286 of the German Civil Act following a warning notice from the Customer that is made after performance is due.

(5) Should a delay exceed 3 months, the customer shall be entitled, to withdraw from the unfilled part of the contract should we fail to meet a reasonable grace period set by the Customer.

(6) We are entitled to make partial deliveries if
- the partial delivery can be used by the Customer within the scope of the contract;
- the delivery of the remaining ordered goods is possible and
- the partial deliver does not impose any considerable additional work or additional costs to the Customer.

If the customer incurs additional costs due to the partial delivery, we shall bear these costs.

Clause 5 Transfer of risk

Unless otherwise expressly agreed, any of our deliveries are CIP Carriage and Insurance Paid To (INCOTERMS 2000). Delivery dates are deemed to have been met at the time and date of availability of goods for dispatch at our factory. Unless otherwise agreed in writing, any risks relating to the ordered items shall pass to the Customer at the time of their handover to the first carrier.

Clause 6 Warranty

(1) Warranty claims shall be time-barred after 12 months of the transfer of risk.

(2) The Customer shall inspect carefully products delivered immediately after delivery to the customer or to a third party designated by him. The delivered product shall be deemed to be approved by the customer if we do not receive a written notification of defects in case of any obvious defect and other defects which could have been recognised in an immediate, careful inspection, within a period of 7 business days upon delivery. With regard to other defects, the delivery items shall be deemed to have been approved by the customer if the notification of defects is not received by us within 7 business days of the time at which the defect has been identified. If the defect was already obvious at an earlier point in time during normal use, this earlier point in time shall mark the beginning of the complaint period. The terms for the inspection and notification of defects described above shall also apply if the product is delivered directly to any third party.

(3) In the event of a defect of the delivered product, we may provide alternative performance by means of repair or replacement. Our right to refuse an alternative defect mitigation measure under the statutory conditions remains unaffected.

(4) The Customer shall returning the defective goods to LEIBINGER carriage paid in order to trigger the alternative defect mitigation measure. If the complaint is justified, we shall reimburse the costs of the cheapest shipment (DDP). This shall not apply to the extent that the costs increase because the delivered product is located at a place other than the place of delivery. In this event only the costs according to sentence 1 shall be reimbursed. Should the customer request performance of the warranty work at the location without compelling reason, we may comply with this request, supplying items covered by the warranty free of charge, but subject to the proviso that the customer reimburses our travel expenses and labour charges at our standard rates.

(5) Insofar as the purchaser is not an end customer but one of our authorised dealers, the following shall apply in deviation from § 6 para. 4: If the defect can be remedied by replacing or repairing a defective part, we shall be entitled to demand that the removed, defective part will be shipped to our factory or to another location specified by us. In this case, our obligation with regard to the defect ends with the delivery of the properly repaired or replaced part to the customer. The defective part or device shall be shipped to us postage paid (DDP) in deviation from paragraph 4, provided that the customer is one of our authorized dealers. Furthermore, the assertion of expenses, e.g. costs for travel and operational hours are to be paid by the customer at our standard rates.

(6) If such an alternative mitigation measure has failed twice, or if a reasonable period to be set by the customer for the alternative performance has expired unsuccessfully, or is dispensable according to the statutory provisions, the purchaser shall be entitled to withdraw from the contract or to reasonably reduce the purchase price. In case of an insignificant defect, however, such right of withdrawal shall not exist.

(7) Even in the case of defects, the customer's claims for damages or compensation for futile expenditure shall only exist in accordance with clause 9 and shall otherwise be excluded.

(8) We may demand reimbursement of costs incurred by us as a result of an unjustified request by the customer to remedy a defect (in particular testing and transport costs), unless the lack of defect was not apparent to the customer.

(9) Warranty claims shall only be recognised if filed by the original customer, who shall not be entitled to assign these to any third party.

(10) The warranty shall not apply if the customer modifies the delivery item or has it modified by a third party without the consent of the seller and/or does not follow our operating or maintenance instructions, and the elimination of the defect is thereby made impossible or unreasonably difficult. In any case, the customer shall bear the additional costs of remedying the defects arising from the modification.

(11) Returns due to incorrect orders are generally only possible after prior consultation and against payment of a restocking fee of 20% of the value of the goods. The customer shall bear the costs of return shipment.

(12) A warranty is excluded for wearing parts.

(13) The conditions set out above constitute the full extent of the warranty for products supplied by us. We hereby expressly waive any further liability of any kind whatsoever.

Clause 7 Payment

(1) The invoice amount shall be due in accordance with the agreed payment terms. The customer may not delay payments or offset counterclaims not recognised by us against the invoice amount. This shall apply, in particular, to retentions in cases where there are complaints relating to the goods or services supplied.

Irrespective of whether the customer's terms of contract contain conflicting terms and conditions, we shall be entitled to credit incoming payments initially to settlement of older accounts receivable and, in cases where charges and interest have accrued against such accounts, to credit the funds received first against the charges and then against the accrued interest. Any remaining amount will then be credited against the amount owed to us for supply of goods and services.

(2) Outstanding accounts shall not be treated as settled until we are able to dispose freely of the amount received. In the case of cheques, this shall be the date on which the cheque is cashed.

(3) In case of a delay of payment, we shall be entitled to charge interest on the outstanding amount as from the date of default at either the current rate charged by commercial banks for debit balances on current account or at 8 percentage points above the ECB's basic interest rate, whichever is the higher.

(4) Should the customer fail to honour his payment obligations, in particular, by submission of a cheques which are not honoured or suspends payments or if other circumstances give rise to reasonable doubt on his creditworthiness, we shall be entitled to demand immediate payment of any outstanding accounts. We shall further be entitled at our sole discretion to either withdraw from performance of any still outstanding contracts or part contracts with the customer or to make their performance conditional on advance payment or provision of adequate security.

(5) Should the customer file complaints relating to our supply of goods or services or file counterclaims against us, he shall only be entitled to offset or retain the relevant amounts from payments due to us in cases where we have expressly confirmed our consent to this in writing or where his counterclaims are *res judicata*.

Clause 8 Retention of title

(1) We retain title to any goods and services supplied by us as security for any of our claims against the customer arising from current or future business transactions.

(2) Our title to the goods and services supplied shall also extend to any new products in which they are used. We shall therefore acquire co-title to any products in which they are included as a result of processing, mixing or otherwise compounding in the proportion of the invoice value of our goods and services to the value of the other materials present in the new products.

(3) The customer, in his capacity as custodian of our property, shall treat the goods and services supplied by us with the due care expected from a prudent business man and shall take any necessary action to ensure that our title is neither impaired nor avoided.

(4) At the time of closing the contract with us, the customer hereby assigns any claims accruing to him through sale of goods and services to which we retain title as security for our claims in para. 1 of this clause.

Clause 9 Liability

(1) We recognise liability in accordance with the provisions of the German Product Liability Act and also for loss resulting from our wilful act, gross negligence, failure to supply guaranteed qualities and for death, bodily or other health injury in accordance with and to the extent prescribed by the relevant German laws and regulations.

(2) In any other cases, our liability and any claims for compensation filed against us arising from either breach of a contractual obligation or tortious act shall be limited to the level of the foreseeable loss in a contract of this type.

Clause 10 Governing law, place of jurisdiction, nullity

(1) This contract shall be governed by and interpreted under the laws of the Federal Republic of Germany (excluding the Convention on Contracts for the International Sale of Goods). The respective version of the INCOTERMS of the International Chamber of Commerce in Paris shall also be applicable.

(2) Unless otherwise stipulated by mandatory law, the sole place of jurisdiction for any disputes arising either directly or indirectly from this contract shall be Tuttlingen.

(3) Should any provision contained either in these Standard Terms of Contract or in other agreements entered into by us prove or subsequently become invalid, this shall not affect the remaining provisions or agreements.