

General Terms and Conditions of Purchase and Ordering of LTI-Metalltechnik GmbH

§ 1 General provisions

1.
The following Terms and Conditions of Purchase and Ordering shall apply to the whole duration of the business relationship between us and our suppliers thus to all current and future contracts, even if no reference should explicitly be made any more to these Terms and Conditions of Purchase and Ordering.

These Terms and Conditions shall not apply to contracts with us as seller or supplier. Our separate General Terms of Sale and Delivery shall apply to such contracts.

2.
Deviating, opposing or supplementary General Business Terms of the customers shall, even if known, not become part of the contract unless their validity is explicitly approved by us in writing.

3.
The following Business Terms shall also apply if we trigger off orders without reservation in the knowledge of opposing or deviating terms and conditions of the suppliers.

4.
Customers within the meaning of these business relationships are only entrepreneurs. These Business Terms shall not apply towards consumers.

5.
In case of deviations or a contradiction between the various language versions the German version shall be decisive.

§ 2 Conclusion of contract, offer and order

1.
The Terms and Conditions shall also apply to our enquiries. These are however always non-binding. These are moreover to be made a basis of the offers of the suppliers which is carried out free of charge and non-binding for us. Insofar as it is necessary to prepare drawings or plans or to visit our plants for the creation of offers this is also carried out free of charge for us.

2.
Our orders and their changes are only binding if they are placed or confirmed by us in writing. Oral collateral agreements are invalid. This shall also apply to the written form requirement.

3.
Our orders are to be confirmed in writing within 3 workdays after the receipt by the supplier. If the confirmation is not carried out within this deadline and within the stipulated form we are entitled to revoke the order or to change it without the supplier being able to derive any claims from such revocations or changes.

4.
Until the full fulfilment of the order we are entitled, also after the conclusion of the contract, to request changes to the object of delivery if the deviation is, as proven, deemed reasonable by taking the interests of the supplier into consideration.

5.

We reserve the property rights and copyrights to diagrams, drawings, calculations as well as other documents and production means. This shall also apply to our corporate logo.

All of the afore-mentioned documents as well as photos or other means, to which we have accordingly reserved the property rights and copyrights, may neither be made accessible to third parties without our explicit and written consent, nor be published without our explicit written consent. This in particular applies to publications on the homepage of the respective suppliers.

6.

The supplier is obliged to compare the drawing index specified on the order with the index of the drawings which are held by the supplier. In the event of a deviation, the supplier is obliged to notify the customer independently and to request the current drawing index.

§ 3 Delivery

1.

Delivery dates and deadlines stated by the supplier are always binding. Decisive for the adherence to the dates and deadlines is the receipt of the delivery at the place or receipt or use as stated by us.

2.

If the supplier recognises that a stated and agreed date or the stated or agreed deadline cannot be adhered to no matter for what reasons then it has to inform us thereof immediately in writing by stating the reasons and the expected duration of the delay. If the supplier is responsible for the non-adherence to the dates and deadlines we shall be entitled to the statutory claims.

However, we shall also be entitled to the cancellation if the supplier was not responsible for the delay or non-adherence and the delivery is no longer usable for us as a result of the delay by taking the financial aspects into consideration.

3.

The supplier can only refer to the absence of necessary documents or provided goods, which are if applicable to be delivered by us, if it has issued a written reminder of the documents or provided goods and not received these within a reasonable period of time.

4.

We are entitled to refuse the acceptance of goods, which are not delivered as of the delivery date stated in the order or within the stated delivery deadlines and to return or store these at third parties at the account and risk of the supplier.

5.

The possible acceptance of the delayed delivery or service without reservation does not include any waiver of the claims for compensation to which we are entitled owing to delayed delivery or service.

6.

Possible deadlines for the inspection of the goods and report of defects shall only be calculated from the day of the agreed delivery in the event of an earlier delivery than agreed.

§ 4 Prices, transport and packaging

1.

The agreed prices are fixed prices and cover all expenses of the supplier in connection with the deliveries and services which are to be provided by it.

We are to be informed of and shall benefit from price reductions during the time between the order and payment of the invoice. The agreed prices are deemed free place of receipt including the costs for packaging, insurance and customs duties.

2.

The shipment is carried out at the risk of the supplier.

The risk of each deterioration including the accidental loss shall thus remain with the supplier under the delivery to the shipping address or place of use as stated or requested by us.

3.

The supplier is only entitled to make partial deliveries with our written consent.

We are also entitled to cancel the whole contract in case of interferences to services with only a partial delivery.

4.

In the event of the delay in delivery for which the supplier is at fault we are entitled to request 0.2% of the net order value as a conventional penalty per calendar day of the delay. This entitlement is however limited per order to a maximum of 5% of the respective net order value.

The reservation of the conventional penalty can also be asserted by us still until the final payment.

The reservation shall also still be deemed in time if the conventional penalty is deducted with the next due invoice of the supplier.

The conventional penalty which is accordingly to be paid will be offset against possible claims for damages owing to delay in delivery which go beyond this. The assertion of further claims for damages shall remain unaffected by this regulation.

5.

Insofar as we should be in default of acceptance with the acceptance of delivered goods no obligation exists on our part to reimburse flat rate additional expenses. We are in particular not obliged to pay flat rate storage costs.

Our obligation to reimburse concrete additional expenses against proof shall remain unaffected hereby.

§ 5 Payment

1.

Invoices are to be submitted to us in duplicate with all associated data and by stating our order number.

2.

The prices agreed upon conclusion of the contract are fixed prices. The supplier shall not have an entitlement to increase the agreed remuneration even if the delivery or service should be carried out several weeks or months after conclusion of the contract and the circumstances upon which the calculation of the price was based upon conclusion of the contract, in particular material costs, wages and public duties, should have increased.

3.

The payment of due invoices is carried out on customary trade channels. Invoices are due and payable no earlier than within 14 calendar days after the receipt of the invoice.

A right to deduct cash discount in the amount of 3% exists up to a term of payment of 30 calendar days after the due date of the invoices.

The deadline for payment shall not begin before the receipt of the delivery or service.

4.

Insofar as certificates concerning material tests have been agreed they shall form an essential part of the deliveries and are to be sent to us together with the delivery. Payment deadlines shall not begin before the receipt of these certificates.

5.

We are entitled to the statutory rights to offset and retention in full, they can thus not be excluded or restricted by the supplier.

6.

The agreement of advance payments is excluded.

Should nevertheless, no matter for what reasons, agreements be reached for advance payment, then the supplier has to provide us collateral in advance in the amount of the advance payment for the timely and faultless delivery of the ordered goods and for the possible obligation for repayment of the advance payment amount. The collateral is to be provided by an unconditional, unlimited and absolute bank guarantee of a German credit institution by waiving the plea of the benefit of discussion. Payment deadlines shall not begin before the receipt of the original guarantee deed by us.

7.

The payment by bill of exchange or cheques shall be deemed as agreed. The acceptance of bills of exchange or cheques by the supplier is therefore always carried out with the effect of fulfilment.

§ 6 Warranty

1.

The supplier assures that all deliveries /services comply with state-of-the-art technology, the relevant legal conditions and standards, regulations and guidelines of authorities, trade associations and specialist associations.

Insofar as deviations from these should be necessary in an individual case the supplier undertakes to obtain our prior written consent in this respect. The liability for defects of the supplier shall not be restricted by this consent.

2.

We are entitled to the statutory warranty rights and deadlines in full and to an unlimited extent.

The statute-of-limitations for possible defects is 24 months, beginning from the passing of risk. If the statutory warranty deadline is longer this shall apply.

In case of subsequent deliveries owing to reports of defects the warranty deadlines shall begin to apply new with the delivery of the subsequently delivered goods. Work to remedy defects shall also effect a new start to the statutes-of-limitations with the completion of the work.

3.

The regulation of § 377 HGB [German Commercial Code] is excluded with the condition that the deadline for reporting a complaint of this regulation is at least two weeks. In case of hidden defects this deadline for reporting of at least two weeks shall only begin with the discovery of the defects.

Deemed as hidden defects are in particular those, which are only determined during the processing or the commissioning of the object of delivery or service.

§ 7 Liability

The supplier shall be liable for each culpably caused damages.

Indemnifications from liability and restrictions to liability of the supplier are excluded.

§ 8 Product liability

1.

For the event a claim is asserted against us by a customer or third party according to the regulations of domestic or foreign product liability laws or regulations the supplier undertakes to indemnify us from all of

these claims at the first request insofar as the cause of the faulty nature of the product was placed in its field of control and organisation and it is liable itself in the external relationship.

This claim for indemnification shall also comprise the costs of a– also only precautionary – recall action.

The supplier is obliged to secure the assumed indemnification obligation, to mark the objects delivered by it to the extent that they are permanently identifiable as its products.

2.

The supplier undertakes to maintain liability insurance of a reasonable amount, it is in particular obliged to insure itself against all risks from the product liability including the recall risk with a reasonable amount and to submit to us the collateral policy and the confirmation of insurance for inspection upon request.

§ 9 Property rights

1.

The supplier shall be responsible for ensuring that the provided deliveries/services are free of property rights of third parties and that according to its knowledge no other rights exist either, which restrict or exclude a use. The supplier guarantees that patents, licences or other property rights of third parties are not infringed by the delivery and the use of the objects of delivery.

The supplier shall indemnify us from claims of third parties from possible infringements to property rights upon first request and shall also bear all costs and expenses incurred to us in this respect.

2.

We are entitled to obtain the permission to use the objects of delivery and services concerned from the authorized party at the costs of the supplier.

§ 10 Reservation of title, provision of materials

1.

We reserve the property to material provided by us at the supplier. This material is to be stored free of charge by the supplier and with the due care of attention of a public merchant separately from its other objects and to be marked as our property.

These may only be used to carry out our order.

2.

If the material provided by us is processed or converted then this activity shall be carried out on our behalf. We shall become direct owners of the new objects produced hereby.

If the provided material only accounts for a part of the new objects we shall be entitled to co-ownership to the new objects in the ratio which corresponds with the value of the materials contained therein.

3.

With regard to possible rights to reservation of title of the supplier its terms and conditions shall apply under the condition that the ownership to the new goods shall pass to us with their payment and the extended form of the reservation of current account shall accordingly not apply. Owing to the reservation of title the supplier can only request that the goods are handed over if it has previously cancelled the contract.

§ 11 Applicable law, place of performance, agreement of court of jurisdiction

1.
The law of the Federal Republic of Germany shall apply. The provisions of the Convention of the United Nations concerning contracts for the International Sale of Goods shall not apply.
2.
The place of performance for both contractual parties is Schöntal-Berlichingen.
3.
The place of jurisdiction is the respective County or Regional Court of jurisdiction for Schöntal-Berlichingen.

§ 12 Severability clause

Should individual provisions of this agreement be or become invalid in full or in part or contain loopholes this shall have no effect on the validity of the other provisions.