

General Terms and Conditions of Sale and Delivery of LTI-Metalltechnik GmbH

§ 1 General information

1.
The following Terms of Sale and Delivery shall thus apply for the whole duration of the business relationship between us and our customers to all current and future contracts. The following provisions shall not apply to our purchases and orders. Our separate Terms and Conditions of Purchase and Ordering shall apply to such purchases and orders.

2.
Deviating, contradictory or supplementary General Business Terms of the customers shall, even if these are 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 carry out deliveries to the customers without reservation in the knowledge of contradictory or deviating terms and conditions of the customers.

4.
Customers within the meaning of these business relations 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

1.
Our offers and cost estimates are without obligation and non-binding.

Recommendations made or samples created by us are also non-binding. As we do not know the exact field of use of the products produced by us or our services possible recommendations or samples are always carried out non-binding on our part.

Therefore, we shall not be liable for possible faulty or unsuitable recommendations.

2.
The customers are bound to their orders for 4 weeks. These orders are only binding for us insofar as we confirm this in writing or satisfy the order by sending the goods.

We are entitled to accept orders of the customers within the afore-mentioned binding period. However, a contract shall only be concluded with the receipt of a written order confirmation by the customer.

The customer is, also with if applicable late or delayed receipt of the order confirmation, not entitled to revoke its order.

3.
Each acceptance of the orders of the customers is carried out subject to the reservation of the availability of the ordered goods.

4.
We reserve the property rights and copyrights to diagrams, drawings, calculations and other documents. These may not be made accessible to third parties and are, insofar as no contract is concluded or is ended to be returned immediately in full upon request.

§ 3 Delivery and transfer of risks

1.

Possible delivery dates stated by us are only binding with the written agreement or with a written confirmation. Deviating agreements about a binding delivery time must be explicitly reached in writing. The start of a possible delivery time stated by us presumes in any case the clarification of all technical questions as well as the timely and proper satisfaction of all obligations of the customers, in particular the payment obligation.

In cases of strike, lock-out, interference to operation, shortage of energy, interference to traffic, force majeure, late self-delivery or other impediments to delivery, for which we are not responsible, or other unforeseeable events we are entitled to postpone a possible delivery date by a reasonable amount of time.

The same shall apply in the event of an unforeseeable interference to the machine for which we are not responsible. We are also entitled in this case to postpone possible stated delivery dates by a reasonable amount of time.

2.

LTI is entitled to partial deliveries and partial services insofar as these are deemed reasonable for the customer.

In case of partial deliveries a cancellation of the whole contract, however owing to interferences to service with only a partial delivery, is excluded.

3.

Unless other agreed or stated, the actual delivery quantity may vary from the order quantity or the confirmed quantity in the context of industry-standard difference in accordance with DIN 6930-m.

Basis of accounting is the actual delivered quantity.

4.

The goods which are to be delivered shall not be insured by us. The customer can however make an enquiry to us for insurance of the delivered goods. However, an obligation to insure the delivered goods is not associated herewith for us. Should the delivered goods to us be insured however without a legal obligation in this respect, this is always carried out at the costs of the customer or according to Incoterms 2010.

5.

Should additional costs be caused owing to faulty details of the customer to the address data then the customer has to reimburse these.

The obligation of the customer to reimburse the costs for an unsuccessful delivery shall further exist if the goods cannot be delivered owing to structural conditions on site. This obligation of the customer for reimbursement shall further apply if it cannot be reached at the address stated by it.

6.

Possible stated delivery dates or delivery deadlines shall be deemed as adhered to if the goods shipment has been handed over to the carrier or freight forwarder or to any other person commissioned with the shipment within possible stated delivery dates or deadlines.

Insofar as the hand-over to the transport person is delayed for reasons, for which the customer is responsible, possible delivery dates or deadlines shall be deemed as adhered to with the report of the readiness for shipment within possibly agreed delivery dates /deadlines or according to the Incoterms 2010.

7.

Insofar as LTI should have obliged itself to take goods back after the expiry of a possible useful life then the customer has to send these back to LTI free of charge and in originally delivered condition.

8.

Insofar as we should be in delay with the delivery and afterwards should be obliged to damages only the concrete and proven damages will be compensated for. These are moreover limited to the amount of 5% of the value of the delayed (partial) delivery. This limitation to liability shall not apply in case of wilful or grossly

negligent breach of contract by us or our vicarious agents as well as further not with a liability owing to the culpable injury to the life, the body or the health as well as to claims from the Product Liability Act.

Insofar as we should be obliged to damages with respect to the reason, damages owing to default in the form of missed profit of the customers or due to interruptions to operation at the customer are excluded. This restriction to liability shall not apply either with the wilful or grossly negligent breach of contract by us or our vicarious agents as well as further not with a liability owing to the culpable injury to the life, the body or the health as well as to claims from the Product Liability Act.

9.

Insofar as the customer should be in default with the acceptance of our services in full or in part we are entitled to cancel the contract or request damages after the unsuccessful expiry of a deadline set by us. The statutory rights to which we are further entitled in the event of the delay in acceptance remain unaffected.

With the timely request to pick the good up the customer undertakes to accept the goods within 10 days.

In the event of the delay in acceptance the customer has to reimburse us the storage costs incurred to us as well as the storage rent and possible insurance costs. An obligation to insured stored goods does not exist for us however.

We are further entitled to also use for the storage a freight forwarders or any other specialist suitable third party at the cost of the customers.

10.

As an alternative to asserting the concrete storage costs incurred to us according to Subclause 8 we are entitled in the event of the delay in acceptance of the customer to request flat rate storage costs according to the respectively valid storage costs calculation created by us, currently EUR 5.50 per m² and month. The storage costs calculation shall be handed over to the customer upon request. The customer is entitled to prove that less or even no expenses were incurred to us by the storage.

11.

All deliveries or services by us are carried out FCA according to Incoterms 2010.

The risk of the accidental loss and the accidental deterioration shall pass with the delivery to the carrier, the freight forwarder or to any other person commissioned with the shipment, by no later than when it leaves the plant or with the sending of the data to the customer. If the delivery is delayed as a result of circumstances, for which the customer is responsible, the risk shall pass to the customer from the day of the notification that the goods are ready for shipment.

§ 4 Payment / prices

1.

The prices stated by us are deemed, insofar as not otherwise agreed in writing, "FCA" according Incoterms 2010 plus the respective applicable rate of value added tax, exclusive transport and packaging costs. Costs for packaging, transport and if applicable transport insurance shall be charged separately.

2.

We are bound to the agreed prices for 4 months from the conclusion of the contract. Insofar as the delivery or service should be carried out later than 4 months after the conclusion of the contracts we are entitled to increase the agreed remuneration / the agreed prices by a reasonable amount insofar as the circumstances upon which the price calculation was based upon conclusion of the contract, in particular material costs, wages and public duties, have increased.

We will prove the increase in costs to the customer upon request.

3.

Cash discount reductions are not granted. A possible deduction of cash discount requires an explicit written agreement.

4.
Insofar as not otherwise agreed our invoices are due and payable 10 days after receipt and without deduction.

5.
The customers are only entitled to offsetting insofar as the counter-claims of the customer have been determined final and binding or are recognised by us.

6.
The customer can only exercise a right of retention if its counter-claim is based on the same contractual relationship.

7.
Bills of exchange or cheques have no effect for fulfilment. LTI is not obliged to sell provided bills of exchange or cheques, not even as conditional payment. LTI is insofar entitled to return provided bills of exchange or cheques to the customer at its costs.

Should LTI nevertheless accept bills of exchange or cheques, this acceptance is always only carried out as conditional payment. Discount, bill of exchange expenses and costs shall be borne by the customers in this case.

§ 5 Warranty

1.
Dimensions, weights, diagrams, drawings, brochure details as well as samples do not substantiate any agreement of condition within the meaning of §§ 434, 636 BGB. Such performance data are only binding for the execution of the services by us if this is explicitly confirmed by us in writing.

2.
Reference obligations or examination obligations with regard to the drawings stipulated by the customer are not our responsibility.
We shall not be liable for defects to the deliveries/services carried out by us, which are a result of faulty drawings.

3.
Recommendations made or sample created by us are also non-binding. As we do not know the exact field of use of the products produced by us or our services, possible recommendations or samples shall always be carried out on our part non-binding.
Therefore we shall not be liable for possible faulty or unsuitable recommendations.

4.
With existence of defects at the time when the risk is passed we are at our choice entitled to subsequent satisfaction, subsequent improvement or new production.
Insofar as the subsequent satisfaction should fail the customers can at their choice request reduction to the remuneration (reduction) or reversal of the contract (cancellation). However, a subsequent fulfilment shall only be deemed as failed after the third attempt if not otherwise derived from the type of the object or the defect or the other circumstances.

5.
With an only insignificant or only slight breach of contract, in particular with only slight defects (e.g. optical defects) a right to cancellation is excluded. An insignificant or slight breach of contract exists in any case if only optical defects exist or the functionality of the goods / service is not impaired.

The cancellation is further excluded if the customer is responsible for the circumstance, which would entitle it to cancellation, solely or to a large extent or if we are not responsible for the circumstance and occurs at a time at which the customer is in default of acceptance.

6.

A defect within the meaning of the warranty right does not exist if deviations, in particular in measurement values, exist from our details, these deviations however still exist in the respective tolerance range stipulated by the manufacturer.

No warranty exists with damages, which are caused by improper treatment or use of the goods by the customer. The same shall apply to a so-called "intended wear and tear".

7.

The customer has to inspect delivered goods / services and to report if applicable defects immediately. §§ 377, 378 HGB [German Commercial Code] shall apply. If not otherwise derived from this the object of contract shall be deemed as accepted by no later than one week after the report that the goods are ready for acceptance.

If defects are not inspected and reported immediately in line with these regulations, warranty claims of the customers are excluded insofar.

§ 6 Reservation of title

1.

We reserve the property to the delivered objects until the full satisfaction of all claims, in particular claims for payment, to which we are entitled towards the customer for any legal grounds from the whole business relationship.

2.

The customer is entitled to sell the reserved goods in customary business transactions at its normal business terms as long as it is not in payment arrears. Pledges or assignments as collateral of the reserved goods are not permitted.

The customer hereby now already assigns the claims incurred from the resale or any other legal grounds (illicit act, insurance) with regard to the reserved goods to us. The cover limit for the insofar assigned claims is 110% of the assured purchase price claim. The assignment is hereby accepted by us.

The customer is hereby however revocably authorized to collect the assigned claims.

The authorization for the resale shall lapse as soon as an application for the opening of insolvency proceedings has been filed over the assets of the customer.

3.

Processing or conversions of the reserved goods shall always carried out on our behalf as manufacturer, however without an obligation for us. If our property lapses by connection, it is hereby now agreed already that the ownership to the standard object shall pass to us pro rata value.

The authorization for the re-processing, conversion, mixing, connection of the reserved goods shall lapse as soon as an application for the opening of insolvency proceedings has been filed over the assets of the customer.

4.

For the duration of the reservation of title the customer is obliged to treat the reserved goods with due care and attention, in particular to sufficiently insure the object at its own costs. Insofar as service and inspection work are necessary the customer also has to be carried this out at its own costs.

5.

In case of accesses of third parties to the reserved goods the customer undertakes to point out our property and to inform us immediately.

Insofar as the customer breaches this and the third party is not in the position to reimburse us the costs incurred in this context the customer shall be liable for this.

6.

In case of conduct of the customer in breach of the contract, in particular with default of payment, we are entitled to forbid the resale of the reserved goods and to cancel the contract and to request that the reserved goods are handed over.

§ 7 Liability

1.

Our liability is excluded owing to the breach of non-essential contractual duties unless there is a wilful or grossly negligent breach of contract by us or our vicarious agents. In case of slightly negligent breaches of duty of essential contractual duties our liability is limited to the foreseeable damages which are typical for the contract.

To be understood under essential contractual duties in the afore-mentioned sense are those contractual obligations the non-compliance with which endangers the achievement of the contractual object, the satisfaction of which makes the proper execution of the contract possible at all and on the compliance with which the contractual partner may rely as a rule.

2.

The liability exclusion and the liability restrictions shall not apply with a liability owing to culpable injury to life, the body or the health as well as to claims from the Product Liability Act

§ 8 Tools

1.

We reserve the ownership to our tools and to the tools produced by us, also insofar as we provide this to the customer, until the full payment of the tools.

2.

The customer undertakes to insure tools provided by us, which are still our property, at its own costs against fire, water and theft damages. The customer further hereby now already assigns all possible claims for damages from this insurance to us. We hereby accept the assignment.

3.

The customer can only acquire ownership to our tools if the tools have been paid in full. In this case these tools and possibly provided tools, which should be located with us, are to be picked up by the customer at own costs within 12 months after the last delivery or service. If these tools are not picked up within the aforementioned deadline we are entitled to set the customer a further deadline in writing of 2 months for the pick-up of the tools. After the expiry of this deadline we are entitled to store or to dispose of the tools at the costs of the customer.

4.

Production costs for tools, which are especially produced for the customer including the service costs as well as the replacement and repair costs for such special tools shall be borne by the customer insofar as we should not be responsible for the loss or the deterioration of the tools.

§ 9 Applicable law, agreement on place 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 Court or Regional Court of jurisdiction for Schöntal-Berlichingen.

§ 10 Severability clause

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