

# GENERAL TERMS AND CONDITIONS OF PURCHASE

LINHARDT GmbH & Co. KG, 94234 Viechtach  
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## 1. General provisions

- 1.1. The purchase orders of LINHARDT GmbH (hereinafter referred to as "Customer") are exclusively subject to these Terms and Conditions of Purchase. The confirmation or execution of the order shall be deemed the acknowledgement of these Terms and Conditions of Purchase. The Customer shall not acknowledge any deviating or additional conditions of the Contractor, except when consenting to them in writing, even if the Customer does not expressly object to them.
- 1.2. These terms and conditions shall apply in dealings with entrepreneurs (Section 14 (1) BGB [German Civil Code]), legal entities under public law and special funds under public law.
- 1.3. These terms and conditions shall also apply to future business transactions with the Contractor on the basis of the current business relationship.

## 2. Purchase order and confirmation of order

- 2.1. The Customer's purchase orders shall only be valid if they are made in writing. Oral purchase orders shall be subject to a written confirmation. Collateral agreements shall be made in writing.
- 2.2. Purchase orders shall be confirmed by the Contractor immediately by stating the reference number.
- 2.3. All proposal documents of the Customer, particularly drawings, plans, calculations and technical specifications, shall remain its property and shall not be made accessible or disclosed to third parties without the Customer's consent.

## 3. Delivery dates and contractual penalties

- 3.1. Deadlines and delivery times shall be binding.
- 3.2. If a contractual penalty is agreed for cases of late delivery, the Customer's right to withdraw from the contract and to assert further claims, such as further claims for damages, shall remain unaffected.
- 3.3. The Customer may demand an agreed contractual penalty until the final payment, even if it accepted the delivery or service without any prior special reservation.
- 3.4. If it becomes obvious that the Contractor is not able to comply with delivery dates in whole or in part, the Contractor shall inform the Customer immediately by stating the reason and the expected duration of the delay in writing. If the Contractor intentionally or negligently breaches this duty, it shall be liable for the resulting damage.

## 4. Shipping provisions and dispatch notes

- 4.1. If the shipping documents desired or required for a delivery are not sent in due time or if significant and necessary details are not stated in the shipping documents for reasons the Contractor is responsible for, the goods shall be stored at the cost and risk of the Contractor until the shipping documents and/or the completed shipping papers arrive.
5. Assumption of risk / prices
  - 5.1. For lack of a deviating written agreement, the price shall include delivery "free domicile destination address" including all ancillary costs.
  - 5.2. The risk of accidental loss and accidental deterioration shall be borne by the Contractor until the transfer of risk (delivery or acceptance, to the extent this is provided by law or agreed). This shall also apply if the delivered goods already are at the agreed delivery point.

## 6. Receipt and inspection of the goods

- 6.1. Events of force majeure as well as other unforeseeable events the Customer is not responsible for, such as strikes, lock-out or natural disasters, authorise the Customer to postpone the receipt of the delivery accordingly.
- 6.2. In case of excess deliveries that exceed the customary dimensions, the Customer reserves the right to return the excess goods at the Contractor's cost.
- 6.3. Any potential obligations to inspect of the Customer shall be limited to the immediate check of the delivery with regard to whether it complies with the ordered quantity and the ordered type and for externally identifiable transport damage and externally identifiable defects. If the Customer is obliged to an immediate notification of defect, such notification shall always be sent in due time; within 10 working days after the transfer of risk or receipt (whichever is later) with externally identifiable defects, and within 10 working days after identification with hidden defects. Where a longer period of time is required to inspect the delivery or service, such longer period of time shall apply.

## 7. Payment and invoices

- 7.1 Unless otherwise agreed, the payment shall be made at the Customer's option within 10 days with 3% cash discount, within 14 days with 2% cash discount or within 30 days respectively as from the receipt of the invoice and all goods. The Customer shall not be in delay with payment at an earlier time. If a specific deadline has been set, the Customer shall only be in default after the prior warning of the Contractor. The invoices shall be provided with the Customer's order data and submitted twice by mail. A copy of the delivery note shall be attached. The Customer shall be entitled to pay by bill of exchange or cheque. In such case, discount charges and taxes shall be borne by the Customer.
- 7.2 The date of receipt at the specifically highlighted delivery address shall be deemed the date of invoice receipt. However, payment periods shall not start prior to the agreed delivery date.
- 7.3 Any potential advance and interim payment shall not constitute the acknowledgement of the contract conformity or the fulfilment of the service by the Contractor.

## 8. Warranty

- 8.1 The Contractor undertakes to observe the accepted rules of technology, and particularly the requirements, standards and guidelines issued by the legislator, the regulatory authorities, the employers' liability insurance associations and the VDE [German Association for Electrical, Electronic & Information Technologies] with regard to implementation, accident prevention and environmental protection. The standards and guidelines stated by the Customer shall apply as amended at the time of delivery.
- 8.2 The Customer shall be entitled to the statutory warranty rights (claims based on defects) without limitation. The Contractor shall particularly object to any limitations of the statutory warranty rights, including the resulting claims for damages.
- 8.3 Unless a different agreement is made, the limitation period for claims based on defects shall be 24 months after delivery, or, where acceptance is provided by law or agreed, after such acceptance. If the law provides for longer periods, such longer periods shall apply. Item 8.5 shall apply to the limitation period of claims based on defects of title.
- 8.4 The Customer shall also be entitled, in order to prevent disproportionately high losses, to eliminate defects itself or to procure replacement at the Contractor's cost. However, it shall inform the Contractor without delay, prior to the implementation of such measures, where possible. This shall also apply to sales contracts.
- 8.5. The Customer's claims based on defects of title shall become statute-barred 3 years as from the time the Customer became aware of them or should have become aware of them; however, 10 years after the transfer of title at the latest.

## 9. Product liability

- 9.1 The Contractor shall indemnify the Customer from and against claims for damages on its first demand that are asserted against the Customer due to errors of a product delivered by the Contractor, to the extent the error was caused in the Contractor's area of control and organisation and the Contractor is liable itself vis-à-vis third parties.
- 9.2 The Contractor shall also reimburse the Customer for all reasonable expenses according to Sections 683, 670 as well as Sections 830, 840, 426 BGB, which it incurs due to an error caused by the Customer from or in connection with a recall or information campaign (e.g. warnings in media) carried out by the Customer. The Customer shall inform the Contractor, where possible and reasonable, about the extent and content of the measures to be taken and provide it with the opportunity to comment. Other statutory claims shall remain unaffected.
- 9.3 The Contractor undertakes to maintain product liability insurance with a reasonable sum insured. On the Customer's demand, the Contractor shall be obliged to prove the taking out of a relevant insurance and the payment of the relevant premiums. If the Contractor is liable to the Customer internally due to a product error, the Contractor shall be obliged, on the Customer's first demand, to assign to the Customer its insurance claims in the amount of the loss incurred by the Customer. Payments to the Customer arising from these assigned insurance claims shall be offset against the Customer's claims against the Contractor.

## 10. Industrial property rights

- 10.1 The Contractor shall be responsible for making sure that the delivery item or the service is free from rights of third parties in Germany or, as far as it has knowledge about a different country of destination, in such country of destination. If the Contractor is responsible for a violation of industrial property rights of third parties, the Contractor shall be obliged to reimburse the Customer for any losses the Customer incurred. If the Contractor is not able to eliminate the industrial property rights of third parties within a reasonable period of time, the Customer shall also be entitled, at the Contractor's cost, to obtain the permit for delivery, start-up, use, resale of the delivery item or the service to the extent required for the contractual purpose from the holder of such industrial property rights against a usual and reasonable fee.

### **11. Confidentiality - drawings**

- 11.1 The Contractor shall be obliged to keep the Customer's purchase order and all related commercial and technical details strictly confidential. Details provided by the Customer, drawings made by it or by the Contractor based on such details, etc. may only be used or exploited otherwise upon the Customer's written consent.
- 11.2 The acceptance or approval of drawings, plans and patterns presented by the Contractor shall not affect the Contractor's sole responsibility for the correctness of the service.

### **12. Assignment, exclusion of set-off, reservation of ownership**

- 12.1 Any rights arising from this purchase order may only be assigned to third parties by mutual consent. The Customer's consent shall be deemed given if the Contractor has granted its suppliers an extended reservation of ownership in the ordinary course of business.
- 12.2 Set-off against claims of the Customer shall only be permitted if the Contractor's counter-claims are undisputed or established as final and absolute. The same shall apply to any rights of retention and rights to refuse performance.
- 12.3 Extended reservations of ownership shall not be permitted.

### **13. Vicarious agents**

- 13.1 The Contractor shall be responsible for deliveries and services of its suppliers as it is for its own deliveries and services; the Contractor's suppliers shall therefore be deemed its vicarious agents.

### **14. Place of performance, law and place of jurisdiction**

- 14.1 Place of performance for deliveries and services shall be the destination; for the payment, it shall be the Customer's registered office.
- 14.2 German law excluding the United Nations Convention on Contracts for the International Sale of Goods shall apply to all claims arising from and in connection with this contract.
- 14.3 If the Contractor is a merchant, sole place of jurisdiction shall be Viechtach for all disputes arising directly or indirectly from this contractual relationship.
- 14.4 Should individual provisions of this contract be or become invalid, this shall not affect the validity of the remaining provisions.