

## Sales and Delivery Conditions

### § 1 General Validity and Scope of Application

- 1) The following conditions serve as the basis for business transactions between LEANTECHNIK AG (hereinafter individually and mutually referred to as "Contractor") and its customers (Purchaser or Buyer) (hereinafter also referred to as "Customer") with the exclusion of all other conditions and agreements not expressly approved in writing by the Contractor, even if the following wording is not specifically included in each individual subsequent business.
- 2) These conditions apply to all future deliveries and services until new sales and delivery conditions apply. By placing an order and/or accepting the services delivered by the Contractor, the Customer accepts our conditions. The Contractor generally does not accept general terms and conditions or purchase conditions of the Customer, unless the Contractor has expressly accepted such conditions in writing. The Contractor's deliveries, services and offers are based exclusively on the following conditions, even if an order cannot be confirmed in exceptional cases. Any individual clause of these contractual conditions that is legally invalid does not affect the legal validity of the remaining clauses. The Contractor's General Sales and Delivery Conditions shall also apply in case where the Contractor performs deliveries without reservation while being aware of conditions of the Customer deviating from or conflicting with the Contractor's Sales and Delivery Conditions.

### § 2 Offers, Offer Documents and Order Confirmation

- 1) Quotations and offers are generally non-binding and valid for a maximum period of 30 days from the date of issue. Offers are subject to prior sale.
- 2) The documents included in the offer, like illustrations, drawings, weight and dimensional information as well as information about the subject of delivery and service (e. g. in catalogues, product information, electronic media or labels) are based on the Contractor's general experience and knowledge and are solely approximate values or knowledge of the Contractor. Neither the product information nor expressly agreed product specifications/intended purposes exempt the Customer from testing and/or reviewing the technical and legal suitability for the intended purpose of the product, in particular with regards to property rights. Updated versions of all information materials (e. g. catalogues and operating manuals) are available at [www.leantechnik.com](http://www.leantechnik.com).
- 3) Information about the quality and applicability of the Contractor's products do not include any warranties and in particular not according to §§ 443, 444, 639 BGB (German Civil Code), unless expressly specified as such in writing. Changes of technical data and design changes, as well as product developments according to the technical progress are reserved.
- 4) The Contractor reserves the property right and copyright with regards to quotations, drawings, samples, illustrations, calculations and other material and im-

material documents and information and also in electronic format. This also applies to documents and information identified as "confidential". These materials and information must not be disclosed to third parties without the Contractor's consent.

- 5) The Customer shall be solely responsible for checking whether the materials, data, illustrations, drawings, samples, documentations and other information provided by the Customer to the Contractor infringe third-party rights and in particular industrial property rights and copyrights.
- 6) If the Contractor should be subject to a third-party claim due to the exploitation, use or reproduction as specified above of the materials, data or other information provided by the Customer for an infringement of copyrights or industrial property rights or a violation of the unfair competition law, the Customer shall be obligated to assist the Contractor in defending such claim. The Customer furthermore agrees to indemnify the Contractor for any damages resulting thereof. Such indemnification also includes all legal costs.
- 7) Orders are considered accepted only when they have been confirmed by the Contractor in writing. Until then, the Contractor's proposal is non-binding. Additional agreements, extensions or changes made by telephone, telegraph or orally, require written confirmation by the Contractor in order to be valid.
- 8) For prices that are not expressly designated as firm in the proposals and order confirmations, the Contractor reserves the right to adjust prices accordingly if the cost factor (material, personnel costs, energy, and general costs, tariffs, shipping costs, etc.) increases significantly after the contract is concluded and prior to delivery. The Contractor shall not be obligated to maintain previous pricing for follow-up orders.
- 9) The Customer shall be obligated to provide the Contractor with accurate and complete specifications and to review the order confirmation for a correct indication of the provided data.
- 10) The minimum invoice amount is 100.00 Euro. Amounts up to 100.00 Euro can be paid in cash, with no discount, if the order is picked up.
- 11) Excess or short deliveries of 10 % are considered to be agreed to.

### § 3 Prices

- 1) Prices shall be ex works, without freight, postage, customs duties, packaging, insurance, other duties and legal value-added tax. The legal value-added tax as applicable on the invoice date will be indicated separately in the invoice. The list prices applicable at the delivery date shall apply. Price adjustments are reserved. If discounts are granted on list prices, such discounts shall apply to the respective delivery only and are not binding for all standard products or subsequent orders.
- 2) The Contractor will invoice all additional packaging, transport and postage costs and insurance costs, if applicable, to the Customer. This also applies to agreed partial and express deliveries. Eventually required installation and/or assembly works will be invoiced separately.
- 3) Customs duties and customs handling fees for deliveries abroad shall be borne by the Customer.

- 4) In case of deliveries into other countries of the European Union, the Customer shall notify its value-added tax identification number to the Contractor when placing an order. If the Contractor has not received a valid value-added tax identification number from the Customer until the invoicing date, the legal value-added tax will be charged.

## § 4 Delivery Times

- 1) Delivery times are estimated, even if this is not expressly stated. Deliveries and services will be performed and dispatched in the calendar week confirmed in writing but in no case prior to the clarification of all performance details. Every partial delivery is an independent order.
- 2) Delivery times generally start after the full written agreement of the order conditions and in particular engineering specifications of the Customer, including the availability of any data, drawings, test samples in the required quantity and final quality, etc. to be provided by the Customer free of charge and freight prepaid to the Contractor's operating site. The Customer shall fulfil all of its obligations, like e. g. advance payments, in due time. This does not apply, if the Contractor is responsible for the delay.
- 3) In case of subsequent amendments of the contract applied by the parties (Contractor and Customer) with a potential impact on the delivery time, the delivery time shall be extended accordingly, unless agreed otherwise. The delivery time shall be deemed as met in case of a notification of readiness for shipment in due time, in cases where the shipment cannot be performed without a default of the Contractor. If the Contractor fails to perform the delivery in due time, the Customer shall set a reasonable grace period for the Contractor. The Customer may not reject partial deliveries. Liquidated damages due to non-fulfilment or late fulfilment are declined.
- 4) In case of a delayed acceptance by the Customer, which generally requires a reminder issued by the purchaser or if the Customer culpably violates its obligation to cooperate, the Contractor shall be entitled to claim an indemnification for any resulting damage, including eventual additional expenses. Other claims remain unaffected.
- 5) In case of a delay by the Contractor, the Customer may claim indemnification for each full week of delay of 0.5 % but in any case limited to 5 % of the agreed compensation for the delayed performance, provided that a resulting damage has been determined by a competent court or the Contractor has accepted this decision in writing. The Contractor is free to prove that a lesser damage or no damage at all has occurred.
- 6) Indemnification claims of the Customer beyond the aforementioned limits are excluded in all cases of a delayed delivery, even after the expiry of a grace period set for the Contractor.

## § 5 Inability to Deliver

Operational interruptions of any kind, force majeure events, work stoppages, lockouts, etc. at the Con-

tractor or its subcontractors, as well as any other causes or events that prevent receipt, generation or shipment, exempt the Contractor from compliance with any delivery obligations throughout their duration, including any resulting events, and entitle the Contractor, if the details of the conditions require, to completely or partially cancel the delivery obligations without the Customer being entitled to withdraw from the contract in such cases. The Customer can only withdraw from the contract under legal regulations for a delivery delay, if the Contractor is responsible for the delay.

## § 6 Shipment

- 1) Shipment is ex works, and is always at the cost and risk of the Customer. The risk, including the risk of confiscation, shall transfer to the Customer upon handover of the goods to the carrier or freight forwarder, but no later than upon their departure from the factory.
- 2) The transport route and means will be selected by the Contractor. If goods reported as ready for shipment are not picked up immediately, or in case of a permanent or temporary inability to deliver of the Contractor, the purchase price is nevertheless due. In this case, the Contractor shall be entitled at its own discretion to store the goods at the cost and risk of the Customer. The Contractor assumes no liability for weather damage during shipment or storage of the ordered goods.
- 3) If the shipment and/or acceptance is delayed or fails due to circumstances for which the Contractor is not accountable, the risk shall pass to the Customer on the date of the readiness for shipment and/or acceptance.

## § 7 Packaging

Unless expressly agreed otherwise and accepted in writing and by the Contractor, we will select the packaging according to our best discretion. Packaging will be invoiced at cost price and will not be taken back. The Customer shall be responsible for the insurance against breakage and transport/fire damages.

## § 8 Claims and Rights in Case of Defects, and Liability

- 1) Deviations of dimensions, weights, and goods are permissible according to DIN standards. These are considered as reference values.
- 2) Any claims must be presented to us immediately in writing, indicating all necessary details, such as the article, invoice, and delivery note numbers and the type of damage. To exercise its warranty rights, the Customer must have properly fulfilled its inspection and complaint obligations according to § 377 of the HGB (German Commercial Code).
- 3) The Customer initially has the right to supplementary performance for any existing defects. The Contractor will satisfy claims for supplementary performance by remedy of the defect or delivery of goods or services that are free from defects.
- 4) The Customer shall bear all additional costs and/or expenditures related to a transport of the delivery items to a different location than the delivery address. Replaced goods and parts shall become the

- Contractor's property and must be returned to the Contractor.
- 5) The Customer shall grant the required time and opportunity for such supplementary performance.
  - 6) Rejected goods or parts may only be returned upon the Contractor's request and in suitable packaging, as applicable, including a packing slip indicating the order number. The Customer must provide a description of the defect.
  - 7) In case of a failed supplementary performance (§ 440 BGB / German Civil Code) the Customer shall be entitled to reduce the purchase price or withdraw from the contract. Any other damage claims, like e. g. liability for damages caused by the subject of delivery to objects of legal protection of the Customer (damages to other goods, consequential damages, loss of earnings, etc.) are excluded.
  - 8) This limitation of damage claims does not apply in case of a grossly negligent violation of the Contractor's obligations or a wilful or grossly negligent violation of such obligations by a legal representative or vicarious agent of the Contractor. This limitation also does not apply to liability for damages arising from injury to life, body, or health due to a breach of duty by the Contractor, or intentional or negligent breach of duty by a legal representative or assignee of the seller.
  - 9) The term of expiry for claims and rights due to defects in the supplied goods and services – for any legal reasons whatsoever – and for claims of damages is 1 year.
  - 10) Claims and rights due to defects do not refer to merely minor defects, nor to natural wear; this applies in particular to seals and other wear parts.
  - 11) Damages that result from the following reasons and with no fault of the Contractor do not give rise to defect liability claims:  
Unsuitable or improper use after transfer of risk, in particular excessive stress, incorrect assembly and/or commissioning by the Customer or third parties despite of an available correct assembly instruction – this basically refers to our standard products, unless specified otherwise –, normal wear and tear, incorrect or negligent handling, unsuitable utilities, replacement materials, defective construction works, non-observance of the operating instructions, unsuitable operating conditions, in particular unsuitable chemical or physical impacts, weather and natural impacts and too high or too low environmental temperatures, delivery items complying with foreign regulations, unless expressly agreed by us.
  - 12) The Contractor shall furthermore not be liable, if the Object of Delivery has been created or modified due to the Customer's specifications and in particular drawings provided by the Customer and the defect of the Object of Delivery is caused by these specifications and/or drawings or due to the solution of a design request of the Customer which complied with the state-of-the-art at the time of realisation.
  - 13) If the claim for defect is determined to be unjustified, the Customer must repay any expenditures that have been incurred by the Contractor due to the claim.
  - 14) The aforementioned provisions shall apply accordingly if other items than the contractual delivery items are delivered, provided that

the change or deviation is acceptable for the Customer under consideration of the Contractor's interest.

- 15) In case of gross negligence of a non-senior employee, the liability of the Contractor for physical and financial damages is limited to the contract-typical damage.
- 16) In case of slight negligence, the Contractor's liability is limited to material and financial damages in case of a violation of significant contractual obligations. The Contractor's liability is limited to the contract-typical foreseeable damage also in this case.
- 17) Any indemnification liability exceeding the liability specified in the sections above is excluded irrespective of the legal nature of the asserted claims. This applies in particular for unauthorised conduct according to §§ 823, 831 BGB (German Civil Code). Any unlimited liability under the regulations of the German Product Liability Act remains unaffected.
- 18) Any warranty agreement shall only be valid if made in writing. A warranty agreement shall only be valid if it specifies the warranty extent, period and geographical scope of the warranty cover sufficiently.

## § 9 Right of Withdrawal

The Contractor is entitled to withdraw from the contract or any part thereof by written notification, if the Customer becomes insolvent or overindebted, the Customer suspends its payments or an insolvency proceeding has been applied for with regards to the Customer's assets. The Contractor must exercise the right of withdrawal prior to the start of the insolvency proceeding with regards to the Customer's assets. The Customer grants the Contractor with immediate effect access to its business premises during normal business hours to reclaim delivered goods if the aforementioned circumstances occur.

## § 10 Replacement Delivery and Spare Parts Obligation

- 1) Replacement delivery or credit can be issued only after complete determination of a duty of replacement, by detailed analysis at the Contractor's factory. For this purpose, the goods forming the object of the claim must be sent to the Contractor free of charge. In cases of dire need, replacement will be provided against an invoice for the current price, and a credit issued after a duty of replacement has been established. In case of hired labour the Contractor will ensure the proper processing of the Customer's goods and parts. Further claims for damages, such as replacement material, are not valid. Reference is made to the prescribed non-liability clause of the German Federal Cartel Office. The Contractor's liability shall not be engaged if the Customer or third parties perform modifications or repairs without the prior permission of the Contractor. Further claims of the Customer, and in particular claims for compensation of damages that do not affect the delivered goods themselves, are not valid.
- 2) The Contractor shall in no case be obligated to provide spare parts. Conditions of the Customer implying a spare parts obligation of the Contractor or expressly stipulating such obligation are excluded and will not be accepted by the Contractor, unless

expressly agreed separately between the Contractor and the Customer. The Contractor reserves the right to submit a spare parts offer for repair parts in advance but shall not be obligated to do so.

## § 11 Acceptance and Testing

If a functional test of the goods to be provided is prescribed or agreed to, then it will take place at the Contractor's factory immediately after the notice of readiness to ship, at the Customer's cost. If the Customer fails to perform such a test, the goods are considered to be delivered fully accepted upon leaving our factory.

## § 12 Payment Terms

- 1) If no other payment conditions are set forth in writing in our proposal, payment is due within 14 days from the invoice date with no discount.  
Repair and spare parts deliveries, as well as services and service missions subject to a fee, which are immediately payable net, are excluded from the aforementioned provision. Payment shall be made free of charge to our pay office.
- 2) A payment shall be deemed as performed when the invoice amount is available to our disposal.
- 3) If we should become aware of significant deterioration of the Customer's financial situation after the submission of our order confirmation, the Contractor's claims shall become due and payable immediately. The Contractor shall also be entitled to perform the outstanding deliveries and services, even in derogation from the order confirmation, against an advance payment only and to withdraw from the contract after a reasonable grace period, unless the Customer provides a guarantee. This does apply in case of a failure to fulfil the payment terms, even if such failure concerns other orders resulting from the mutual business relationship.
- 4) The Contractor accepts no credit notes of any kind. The Contractor furthermore is not obligated to accept credit notes.
- 5) In case of late payment, late interest according to § 288, section 2 BGB (German Civil Code) amounting to 8 % above the basic interest rate according to § 247 BGB shall be charged. The Contractor expressly reserves the right to claim additional late payment damages.
- 6) The Contractor reserves the right to make deliveries to new customers against advance payment or cash on delivery only.
- 7) Failure to comply with payment conditions, or conditions that are made known to the Contractor after closing and that may affect the creditworthiness of the Customer, result in all payments becoming due immediately. They also entitle the Contractor to make pending deliveries only upon prepayment or provision of security, and to withdraw from the agreement after a suitable extension of time, or to demand payment of damages due to non-fulfilment, without regard to the right of retraction of the goods provided under retention of title, at the cost of the Customer.
- 8) The Customer is entitled to retention and offset only if undisputed or legally enforceable claims thereto are made valid.
- 9) The Contractor reserves the right to send invoices electronically to an email address to be specified by

the Customer. The email shall be deemed as served on the transmission date. The Customer shall be responsible for the proper processing of the invoice. The Customer shall be responsible for any delayed processing of invoices by the Customer.

## § 13 Retention of Title

- 1) Goods delivered or processed by the Contractor remain the Contractor's property as security for all of the Contractor's claims, including conditional claims and claims of limited duration, arising from the entire business relationship until such goods have been paid for in full. The Customer is, however, entitled to use the goods during the normal course of business.
- 2) The retention of title extends to products resulting from processing, combining or connecting the Contractor's goods at the full value thereof. The Contractor shall be considered as the manufacturer to this extent. If the right to title of third parties persists after processing, combination or connecting to the goods of third parties, the Contractor will obtain co-ownership at the ratio of the billed value of these processed goods.
- 3) Receivables from third parties arising from resale are transferred to the Contractor as security with immediate effect, in whole or to the extent of our co-ownership, by the Customer. This assignment is hereby accepted. The Customer is entitled to obtain said receivables for the Contractor's account until revocation or cessation of his payments to the Contractor. The Customer is not authorized to assign the receivables, even for purposes of collecting the receivables by means of factoring, unless the factor is simultaneously obligated to secure consideration in the amount of the share of the receivables directly to the Contractor for as long as outstanding claims of the Contractor against the Customer exist.
- 4) The Customer shall inform the Contractor immediately by registered mail of access by third parties to the goods and receivables belonging to the Contractor.
- 5) Exercise of the retention of title does not imply withdrawal from the contract.
- 6) The goods, and receivables taking their place, may not be pledged to third parties or transferred or used as security prior to the full payment of the Contractor's receivables.
- 7) If the realisable value of the collateral securities exceeds the Contractor's claims by more than 10 %, the Contractor will release securities at its own discretion, if so requested by the Customer.

## § 14 Inventions

- 1) If the contractual cooperation leads to inventions that may result in industrial property rights, only the party (Contractor or Customer), who's employees or contractors have developed the invention, is entitled to file an application for the industrial property rights. The parties (Contractor and Customers) agree to inform each other about the respective inventions and planned industrial property rights applications. If the party owning the rights of the invention should not plan to file an application, the parties will agree about an eventual transfer of the invention rights.
- 2) If the contractual cooperation should result in inventions, in which employees or assigns of both parties are involved (hereinafter referred to as "mutual invention"), the parties will agree in each individual case,

which party shall file an application for the industrial property rights and where. The application can also be filed mutually. In this case, the costs shall be shared in proportion to the parties' respective contribution to the invention. In case of mutual inventions or shared industrial property rights and/or copyrights, each party is entitled to waive its share for the benefit of the other party at any time. The waiving party will take all steps and measures required to enable the other party to secure its interests in due time.

- 3) If a party intends to waive an industrial property right according to section 1 or 2 (option 1) or to assign such right to a third party (option 2), it must immediately inform the other party hereof. The other party shall be entitled to an assumption free of charge (in case of option 1) and/or a pre-emption right (in case of option 2).

## **§ 15 Data storage and Customer's Declaration of Agreement**

- 1) Upon initiation of the business relationship, the Contractor will store data according to the provisions of the German Federal Data Protection Act (BDSG).
- 2) Notice according to § 33 of the BDSG: The data required for the order processing, and in particular the name, address and registered office of the Customer will be stored electronically by the Contractor and/or used for processing the orders, and in particular the communication with the Customer and/or processing of respective inquiries of the Customer, as well as used for further advertising by our company (mailings, dispatch of brochures, etc.). The contract data will furthermore be used to request a credit assessment by a commercial credit reporting agency, if applicable.
- 3) The Contractor will store and process the order data of the Customer under strict compliance with the provisions of the Federal Data Protection Act.
- 4) Customer's declaration of agreement: The Customer consents to the storage of its data according to paragraph 1 by submitting an inquiry to the Contractor and in any case upon conclusion of a contract. The Customer furthermore agrees that the Contractor may, in case of a contract breach by the Customer, disclose these data to such companies and persons, the Contractor entrusts with the enforcement of its own claims and rights. The Customer furthermore agrees that the postal company contracted by the Contractor will disclose the postal address of the Customer to the Contractor to the extent that the postal item could not be sent to the previously known address (§ 5 of the Postal Service Data Protection Regulation). The Customer is entitled to revoke its consent to the aforementioned storage, use and processing of its data at any time. The Customer may request the deletion of its data at any time in writing. The Customer is entitled at any time, to request information about the data stored with regards to the Customer, as well as the origin and recipient, the use and the respective purpose of these data.

- 5) The Customer furthermore agrees that the Contractor may use the logo and brand name of the Customer as reference exclusively for advertising purposes, as soon as the Customer has placed an order with the Contractor. The Customer is entitled at any time to revoke this right and request the deletion of its reference. The Contractor must demonstrate to the Customer, how the Customer's logo/brand name is used for advertising purposes. The use of the logo/brand name until the date of the Customer's revocation shall remain unaffected. The Customer shall not be entitled to damage claims and further liability rights for indemnification.

## **§ 16 Place of Performance, Legal Venue and Applicable law**

- 1) The place of performance for deliveries and payments, as well as all other rights and obligations arising from the business relationship for both parties shall be the Contractor's registered office. If our contract partner is a businessman, the legal venue for all disputes arising directly or indirectly from the contract relationship is Oberhausen.
- 2) The contract is subject exclusively to the law of the Federal Republic of Germany, also in case of deliveries and services provided abroad. The United Nations Convention on Contracts for the International Sale of Goods and the international conflict law are expressly excluded.
- 3) Customary trade clauses shall be interpreted according to the Incoterms 2010 as amended.
- 4) If any provision of the present Sales and Delivery Conditions should become fully or partially invalid, all remaining provisions and remaining parts of the invalid provision shall remain in full force and effect. The Contractor and the Customer agree to replace the invalid provision with a valid provision fulfilling the economic purpose of the invalid provision to the legally permissible extent.