

Terms & Conditions of Sale and Delivery

§ 1 General provisions, Scope

- (1) The subsequent Terms & Conditions shall be applicable exclusively for all our business transactions with enterprises (§ 14 German Civil Code ("BGB"), hereinafter the "Customer") in the terms of § 310 para. (1) BGB.
- (2) Not being obliged to indicate in each case, these Terms & Conditions shall, regarded as a frame agreement, also apply to all future contracts with the same Customer in respect of the sale and delivery of goods.
- (3) These Terms & Conditions shall be applicable exclusively. Differing, conflicting or amending terms and conditions of the Customer shall only apply as far as we have explicitly approved them in writing. This condition shall be in place as well in case we execute the order fully aware of differing or conflicting Customer terms and conditions without reservation.
- (4) Other written contractual agreements with the Customer on an individual basis differing from these Terms & Conditions shall prevail. Insofar as these terms and conditions require the written form, this shall also apply to telecommunication transmission (e.g. by e-mail or fax).
- (5) Indications to statutory provisions are only for clarifying reasons. Such clarification missing shall have no impact to any applicable statutory provisions unless they have been directly changed or explicitly excluded within these Terms & Conditions.

§ 2 Quotation, Conclusion of Contract

- (1) Our quotations are, unless limited in time, subject to change and non-binding.
- (2) By placing an order, the Customer makes a binding declaration that he wishes to purchase the ordered goods. We can accept an offer made with the order within a period of four weeks after receipt. In any case, a contract is only concluded by our written order confirmation, the countersignature of the Customer order or the execution and delivery of the order. Decisive for the content of the contract is the document which contains our written confirmation or, if the order is executed with the knowledge of the Customer, the content of our last offer.
- (3) Obvious mistakes, printing, calculation, spelling and calculation errors are not binding for us and the Customer cannot derive any claims therefrom

§ 3 Scope of Contract, Construction, Changes

- (1) The provisions of the contract are solely decisive for our performance obligation towards the Customer. Notwithstanding this, we do not assume any obligation or responsibility with regard to the process, production, etc. of the Customer for which our goods are intended.
- (2) Specifications, illustrations, drawings, photos and other information regarding the condition of the delivery item in brochures, on data sheets in other product descriptions - also in electronic form - (e.g. advertising, public statements) are only approximate and non-binding and, unless expressly agreed otherwise in writing, only serve to individualize the subject matter of the contract and in particular do not constitute a guarantee of condition.
- (3) We reserve the right to make design and form changes during the delivery period, if the goods and their function and appearance are not substantially changed thereby and the changes are reasonable for the Customer.
- (4) We reserve the right of ownership and all copyrights or other industrial property rights to samples, drawings and other information of a physical and nonphysical nature - including in electronic form - as well as all other documents being part of to the offer. These documents may only be made available to third parties with our prior express written consent and must be returned to us immediately upon request.
- (5) If the delivery of plants or systems is part of the contract, their planning and manufacture is based on Customer specifications. We assume no responsibility for checking the Customer specifications for correctness and completeness. Unless otherwise agreed in writing, we will carry out two revisions free of charge within the scope of planning / contract processing.
- (6) If approval of documents, technical documentation, revisions by the Customer is agreed, a complete examination / commentary and approval by the Customer shall be made within two weeks of receipt.
- (7) If the Customer wishes additional requirements or changes to the contract after conclusion of the contract, these are subject to our prior express written consent and the conclusion of a supplementary contractual agreement, in particular with regard to additional remuneration and changes to the delivery time. From receipt of the Customer's change request until the conclusion of a supplementary agreement, we are entitled to interrupt further processing of the initial order. Any resulting extension of the delivery time shall not be at our expense. If we submit suggestions for changes to the Customer, the above shall apply accordingly.

§ 4 Suspension, Cancellation

- (1) If the Customer demands the suspension of the order for reasons we are not responsible, this is subject to our prior consent. In the event of our consent or if we interrupt the execution of the order for reasons the Customer is responsible, the Customer is obliged to reimburse us all costs arising out of and in connection with this suspension. Our right to demand compensation for any additional damages incurred remains unaffected.
- (2) If the Customer wishes to cancel or terminate the order for convenience, this is subject to our prior consent. In the event of our consent or, if we cancel or terminate the order for reasons the Customer is responsible, Customer shall be obliged to pay us (i) the portion of the agreed purchase price corresponding to the degree of completion of the goods manufactured in accordance with the contract up to the date of termination, (ii) the costs incurred by us out of and in connection with the termination and (iii) 5% of the remuneration attributable to the part of the work not yet performed.

§ 5 Prices, Payment, Payment Terms

- (1) Our price details and price lists shall be subject to change, unless we have expressly confirmed them in writing as binding.
- (2) The prices stated are net prices, plus the value added tax valid on the due date. If no prices were agreed upon when the contract was concluded, our prices valid on the day of delivery shall apply.

- (3) Invoices shall be paid within 30 days, advance payment invoices within 8 days after receipt without any deduction. Decisive for payment is the day on which the amount is at our disposal. Payment shall be made in the same currency in which the invoice is issued.
- (4) If an agreed delivery transaction with foreign reference is basically exempt from VAT, the Customer is obliged to provide us with the necessary written evidence in connection with the export without delay, otherwise we are entitled to invoice the Customer for the VAT incurred. This invoice is due for payment within 8 days of receipt.
- (5) Shipping costs will be charged additionally. Unless otherwise agreed in writing, all ancillary costs, e.g. transport insurance, packaging, unloading, delivery, customs costs, etc., shall be borne by the Customer.
- (6) If the Customer does not meet his payment obligation or if a requested security is not provided in response to a corresponding request, we shall be entitled to interrupt our obligation to perform or to assert a right of retention. The delivery period shall be extended accordingly. If the Customer fails to pay when due, interest on arrears will be charged in accordance with § 288 Para. 2 BGB (German Civil Code), the right to assert further damages caused by default remains unaffected. We shall not be obliged to make further deliveries and services from current contracts before full payment of due amounts including interest and costs.
- (7) Payments may only be made by bank transfer. Payments by bill of exchange and cheque are not recognized as fulfillment of the payment obligation.
- (8) It may be agreed between the parties that the Customer must open a documentary letter of credit through his bank (or a bank acceptable to us). In this case, it is agreed that the opening of a documentary letter of credit shall be in accordance with the General Guidelines and Customs for Documentary Credits, Revision 2007, ICC Publication No. 600.
- (9) All claims shall become due immediately, even in the event of deferral, if the Customer is in default of payment, suspends payments, is over-indebted, applies for the opening of insolvency proceedings over his assets, such proceedings are opened or are rejected for lack of assets or if we become aware of circumstances which are likely to considerably reduce the creditworthiness of the Customer. In these cases we are entitled, at our discretion and after setting a deadline, to demand the return of the delivered goods, to make further deliveries dependent on advance payments or the provision of security, to demand compensation for damages or to withdraw from the contract.

§ 6 Time of Delivery and Performance

- (1) Unless otherwise agreed in writing, delivery dates and delivery periods are approximate and subject to change.
- (2) Our adherence to agreed delivery dates presupposes that all commercial and technical questions have been clarified with the Customer and that the Customer has fulfilled all obligations incumbent upon him, such as the timely provision of materials, documents, official certificates or approvals, examinations, releases and payment obligations and that no subsequent changes to the order were requested or agreed. Any delays for which the Customer is responsible shall extend the delivery time accordingly.
- (3) Meeting the delivery period shall be subject to our correct and timely self-supply.
- (4) If binding delivery deadlines cannot be met for reasons for which we are not responsible (non-availability of performance), the contractually agreed dates and deadlines shall be extended accordingly. We shall inform the Customer of this immediately and at the same time inform him of the expected new delivery date. If the service is also not available within the new delivery period, we are entitled to withdraw from the contract completely or in part and will in return reimburse any consideration already provided by the Customer. Cases of non-availability of the service in this sense are in particular the unjustified self-supply by our suppliers, if we have concluded a congruent hedging transaction or force majeure, such as war, terrorist attacks, import and export restrictions, industrial disputes or operational disturbances occurring at our or our suppliers' premises, which prevent us from delivering the goods on the agreed date or within the agreed period through no fault of our own. Our statutory rights of withdrawal and termination in the event of an exclusion of the obligation to perform (e.g. impossibility or unreasonableness of performance and/or subsequent performance) shall remain unaffected. The Customer's rights of rescission and termination under these terms and conditions shall also remain unaffected. Irrespective of this, in the event of termination of the contract due to force majeure, we shall be entitled to demand payment for our contractual services rendered up to that point in time.
- (5) Unless otherwise agreed in writing, (partial) deliveries shall be made free carrier Leonberg (FCA, Incoterms 2020). At this point in time the risk of accidental loss and accidental deterioration shall pass to the Customer.
- (6) We shall be entitled to make and invoice partial deliveries, unless a uniform subject matter of the contract is to be delivered.
- (7) If the delivery is subject to a Customer release (e.g. factory acceptance) and if this is delayed for reasons for which the Customer is responsible or if the Customer is in default of acceptance on the respective due date, this release is deemed to have been granted and the risk of accidental loss and accidental deterioration passes to the Customer. If storage of the delivery item is therefore necessary or desired by the Customer, this shall be at the risk and expense of the Customer. § 13 paragraph (1) shall apply accordingly. The same shall apply to clearly delimitable, semi-finished parts if the production of the delivery item and thus an agreed delivery date is delayed for reasons for which the Customer is responsible (e.g. due to late provision).

§ 7 Export Control

- (1) The Customer shall be obliged to provide all required information within the scope of his ordering process, if necessary, with regard to the export of the goods ordered by him or their resale, so that we are put in a position to comply with and apply the legal regulations binding on us and to obtain any necessary permits, etc. Any delays for which we are not responsible and which result from the necessary export controls are not at our expense and an agreed delivery time is extended accordingly.

Terms & Conditions of Sale and Delivery

(2) If, in spite of corresponding notifications from the Customer, there are uncertainties regarding the export of the goods or their end use and if these are not completely cleared up by the Customer even at our request, we shall be entitled to withdraw from the contract after a grace period of 14 days. The Customer shall not be entitled to any claims for compensation as a result.

(3) If we incur damages as a result of incorrect or incomplete information provided by the Customer or if other claims are made against us or state proceedings are initiated, the Customer shall indemnify us in this respect and/or hold us harmless and support us in the defense against such claims and/or the associated proceedings at his own expense.

(4) If the export of our goods requires a license, the validity of the contract shall be subject to the granting of such license.

§ 8 Retention of Title

(1) We retain title to all delivered products until such time as the Customer has paid all current and future claims arising out of the business relationship on whatever legal grounds.

(2) The Customer shall be obliged to treat the products delivered subject to retention of title with care and to provide sufficient insurance, to be proven on request. The Customer hereby assigns any claims against its insurance covering any damages. We herewith accept such assignment.

(3) Any products subject to retention of title may not be given in pledge or as security to third parties until the secured receivables are paid in full. The Customer must notify us without undue delay and in writing, if and to the extent that third parties attempt to seize or attach the products that are our property and point out our retention of title in the products to the third parties. In case the Customer is in breach with these obligations he shall be obliged to provide us with all information necessary in order to assert these rights and to provide the necessary cooperation. Any costs arising insofar shall be borne by the Customer unless we can collect these costs from the third party.

(4) Where the Customer is in breach of contract namely in default of payment of the purchase price due, we shall be entitled to rescind the contract in accordance with the statutory provisions and to demand return of the goods by virtue of the retention of title and the rescission. Where the Customer fails to pay the purchase price due, we may only assert these rights after having set a reasonable grace period for the Customer to pay and such deadline has elapsed without pay or where the setting of any such grace period is not required by law. Our damages and costs arising from rescinding the contract, especially shipping costs shall be borne by the Customer.

(5) The Customer shall be entitled to on-sell and/or process any products subject to retention of title in the ordinary course of business. Additionally the following provisions shall also apply:

(a) The retention of title extends to all products resulting from the processing, intermingling or joining of our products at their full value, with ourselves being deemed as the producer. Where our products are processed, intermingled or joined with the products of third parties and any such third parties have retained title, we shall acquire co-ownership in proportion to the invoice values of the processed, intermingled or joined products. In any event, the resulting product shall be subject to the same provisions as the products delivered subject to retention of title.

(b) The Customer hereby assigns to us, by way of security, all claims from the resale of the products vis-à-vis third parties in full or to the extent of any co-ownership interest in accordance with the preceding subparagraph lit. a). We hereby accept the assignment. The Customer's obligations set out in the preceding para. (2) shall also apply with regard to the assigned claims.

(c) The Customer shall have the revocable right to collect on these claims even after assignment. We hereby undertake to refrain from collecting on any claims as long as Customer meets his payment obligations in relation to us, does not default in payment, no petition to open insolvency proceedings has been filed, such petition has been declined and Customer's ability to perform has not been compromised in any other way. However, should any of the above events occur, we may require the Customer to disclose to us information on all claims assigned and the relevant debtors including all information required for collection, to pass on all relevant documents to us and to notify any and all debtors (third parties) of the assignment.

(6) Where the realizable value of the security exceeds our claims by more than 10%, we shall, upon Customer's request, release any security we are entitled to.

§ 9 Warranty

(1) The period for remedying defects shall be twelve months from commissioning or eighteen months from delivery, whichever occurs first. For spare parts the warranty period is twelve months from delivery.

(2) Warranty claims of the buyer require that the buyer has fulfilled his legal obligations to inspect and give notice of defects (§ 377 HGB) after the transfer of risk. If a defect is discovered during the inspection or later, the Customer is obliged to notify us of this immediately in writing. A notification is considered to be immediately if it is made within seven days, the timely dispatch of the notification is decisive in this respect. Irrespective of the statutory duty to examine and notify, the Customer is also obliged to notify us in writing of obvious defects (including wrong and short delivery) within seven days, the timely dispatch of the notification is also decisive in this respect. If the Customer does not carry out the proper examination and/or notification of defects in due time, our liability for the unreported defect is excluded.

(3) If the delivered goods are defective, we shall be entitled at our discretion to supplementary performance, i.e. to remedy the defect (rectification of defects) or to deliver a defect-free item (replacement delivery). Replaced parts become our property. Our right to refuse the chosen type of subsequent performance under the legal requirements remains unaffected.

(4) We are entitled to make the subsequent performance owed dependent on the buyer paying the purchase price due. However, the Buyer shall be entitled to retain a reasonable part of the purchase price in relation to the defect.

(5) Within the scope of our obligation to remedy defects, we shall have the right to supplementary performance twice. The Customer shall give us the time and opportunity required for the subsequent performance owed, in particular to hand over the goods complained about for inspection purposes or to provide us with access for necessary inspections, which shall include in particular the assessment of the goods complained about or the damage claimed. In the event of a replacement delivery, the Customer shall return the defective item to us. In urgent cases, e.g. in case of danger to operational safety or to prevent disproportionate damage, the Customer has the right, with our prior consent, to remedy the defect himself or have it remedied by third parties and to demand from us reimbursement of the expenses objectively required in this respect. If the Customer or a third party remedies the defect improperly, we shall be released from liability for all consequences arising therefrom. The right of self-remedy does not exist if we would be entitled to refuse a corresponding subsequent performance according to the statutory provisions.

(6) We shall bear the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labor and material costs, if a defect actually exists. We shall not bear any dismantling and installation costs or other costs. The Customer is obliged to provide us with the auxiliary tools necessary for subsequent performance, such as cranes, at his own expense. Also excluded is the assumption of such costs associated with the subsequent performance, which increase our expenses because the delivery item has subsequently been taken to a location other than the Customer's branch or the agreed place of delivery. If the Customer's demand for the removal of defects turns out to be unjustified, we can demand reimbursement of the costs arising from this from the buyer.

(7) We do not assume any obligation to remedy defects in the goods that are based on a description or specification of the Customer. This also applies to parts, material or other equipment manufactured by the Customer or on his behalf, unless the manufacturer of these parts grants us corresponding warranty claims.

(8) In all other respects, we shall not assume any liability for the rectification of defects and damage which have arisen because our installation, operating and maintenance instructions have not been followed or which have arisen as a result of unsuitable or improper use, overloading, faulty installation or commissioning by the Customer or third parties, wear and tear typical of use, incorrect or negligent use or treatment or misuse, unsuitable operating materials, replacement materials, chemical, electrochemical, electrical or physical influences, unless they are caused willful or grossly negligent conduct or by the breach of a contractual obligation by us. In addition, our obligation to remedy defects shall lapse if the Customer or third parties have made changes to the control system/software without our express prior consent and without any other justification, even if the damage/defect/error occurs on a part that has not been changed or if we are not enabled to carry out the inspections we deem necessary, which shall include in particular the inspection of the goods complained about or the damage claimed.

(9) Claims for defects are excluded for used goods.

(10) If the subsequent performance according to the above provisions has failed or a reasonable deadline set by the Customer has expired without success or is dispensable according to the statutory provisions, the Customer may reduce the purchase price or withdraw from the purchase contract. If there is only an insignificant defect, the Customer can only reduce the purchase price. Further claims of the Customer for whatever legal reason are excluded.

§ 10 Liability, Limitations of Liability, Statute of Limitations

(1) Unless otherwise provided for in these terms and conditions, the Customer's statutory right of withdrawal shall be neither excluded nor limited. Likewise, any legal or contractual rights and claims to which we are entitled shall neither be excluded nor limited.

(2) We shall be liable without limitation only for intent and gross negligence (also of our legal representatives and vicarious agents) as well as for damages resulting from injury to life, body or health, which are based on a negligent breach of duty on our part or an intentional or negligent breach of duty by our legal representatives or vicarious agents, as well as for the culpable breach of an essential contractual obligation. Essential contractual obligations are such obligations whose fulfillment is essential for the proper execution of the contract and on whose compliance the Customer may regularly rely.

(3) In the event of non-intentional or grossly negligent violation of an essential contractual obligation and other negligence, our liability shall be limited to the foreseeable damage typical for the contract.

(4) Our liability for damages that do not occur to the delivered goods themselves, i.e. in particular for indirect and consequential damages, such as loss of production and use, loss of sales or profit, damages from business interruption, etc., is excluded, unless it is based on an intentional or grossly negligent act.

(5) Further claims, for whatever reason, are excluded.

(6) An exclusion or limitation of our liability shall also apply to our legal representatives and vicarious agents.

(7) Claims for damages and other claims of the Customer - irrespective of their legal basis - shall become statute-barred within twelve months, unless they are based on intentional or grossly negligent conduct on our part or mandatory statutory provisions provide for a different limitation period.

§ 11 Data Protection

(1) We undertake to comply with the regulations on protection of personal data when providing our services; the data protection declaration regarding the use of our homepage is available at www.lewa.de/en/privacy.

(2) We use personal data for existing and new business relations and will keep it for the duration of our business relationship. We may collect contact data, professional qualification data (publications etc.) during the business relationship, some data may be obtained from public sources and websites. The legal basis for this is Article 6 (1) b) and f) DS-GVO. Further information is available at www.lewa.de/en/dataprotection. Please note that additional data protection notices apply and all of these data protection notices may be updated from time to time.

Terms & Conditions of Sale and Delivery

§ 12 Infringement of Proprietary Rights and Copyrights

(1) If the use of the goods leads to an infringement of industrial property rights or copyrights, we shall endeavor to procure the right to further use for the Customer at our expense or to modify the goods in a manner reasonable for the Customer in such a way that the infringement of property rights no longer exists. If this is not possible at economically reasonable conditions or within a reasonable period, the Customer is entitled to withdraw from the contract. Under the aforementioned conditions, we are also entitled to withdraw from the contract. In addition, we shall indemnify the Customer from undisputed or legally established claims of the respective owners of the property rights.

(2) Our obligations mentioned in paragraph (1) above shall be conclusive in the event of an infringement of property rights or copyrights. Obligations on our part shall only exist if (i) the Customer informs us immediately of any asserted infringements of property rights or copyrights, (ii) the Customer supports us to a reasonable extent in the defense of the asserted claims or (iii) the Customer supports us to a reasonable extent in defending the asserted claims or enables us to carry out modification measures in accordance with the preceding paragraph, (iii) all defensive measures including out-of-court settlements are reserved to us, (iv) the defect of title is not based on an instruction of the Customer and (v) the infringement of rights was not caused by the fact that the Customer has modified the delivery item without authorization or used it in a manner not in accordance with the contract.

§ 13 Setoff, Retention, Assignment

(1) We shall be entitled to offset claims of a Customer against us or to assert a right of retention, even if the due dates differ.

(2) The Customer shall only be entitled to offset against our claim or exercise a right of retention if his claims are executable, undisputed or acknowledged by us. Furthermore, Customer is only authorized to exercise a right of retention to the extent that his counterclaim is based on the same contractual relationship.

(3) The Customer also agrees to the offsetting of his claims and liabilities towards us. In the same way, we may also offset receivables and liabilities of the Customer's group companies.

(4) Claims of the Customer against us may not be assigned.

§ 14 Use of Software

If software is included in the scope of delivery, the Customer is granted a non-exclusive and non-transferable right to use the delivered software including its documentation. It is provided for use on the delivery item intended for this purpose. Use of the software on more than one system is not allowed. The Customer may only copy, revise, translate or convert the software from the object code to the source code to the extent permitted by law (§§ 69a ff. UrhG [Copyright Act]). The Customer undertakes not to remove manufacturer information, in particular copyright notices, or to change them without our prior written consent. All other rights to the software and to the documentation, including copies, shall remain with us or with the software supplier. The granting of sub-licenses is not allowed.

§ 15 Confidentiality

The Customer is obliged to treat all information, documents, documentation, drawings, sketches or other records, know-how and other business or trade secrets ("confidential information") received in connection with the performance of the respective contract as strictly confidential and not to pass on or otherwise make available any confidential information to third parties without our prior express consent. Customer documents shall be treated confidentially by us to the same extent.

§ 16 Final Provisions

(1) These terms and conditions and the entire legal relations between the parties or their respective legal successors shall be governed exclusively by the law of the Federal Republic of Germany, excluding the provisions of the uniform UN Convention on Contracts for the International Sale of Goods and private international law.

(2) Place of performance and exclusive place of jurisdiction for all disputes is Leonberg. However, we are also entitled to bring an action at the Customer's place of business.

(3) Should any provision of the contract between the parties be or become invalid, this shall not affect the validity of the remaining provisions. The parties undertake to replace ineffective provisions with new provisions, which replace the provisions contained in the ineffective provisions in a legally permissible manner. The same applies to any loopholes in the regulations. In order to eliminate the loophole, the parties commit themselves to work in a way that comes closest to what the parties would have determined according to the meaning and purpose of the contract if the point had been considered by them.