

General Supply and Trading Conditions

These General Supply Conditions are applicable to transactions between ss.Lubac Schmiertechnische Anlagen und Produkte Ges.m.b.H (ss.Lubac Lubrication Systems and Products LLC, registered as FN 213407i) and our business trade partners, hereinafter called buyers. Austrian substantive law applies. The United Nations Convention on Contracts for the International Sale of Goods of 11.4.1980 is explicitly excluded.

1. Preamble

1.1 These General Supply Conditions apply to all contracts, deliveries and other services, including consultations, insofar as the contracting parties have not made alternative agreements in writing. In addition, the Assembly Conditions apply to assembly work.

2. Concluding a contract

2.1. Offer

2.1.1. We retain all property rights and the copyright for offers, price quotations, drawings and other documentation. This documentation must be returned on request and may not be made available to third parties. Infringements result in liability for compensation for resulting damage.

2.1.2. The documentation relating to the offer, such as illustrations, drawings, weight specifications etc. serve as guidelines only, insofar as they are not explicitly indicated as binding.

2.1.3. Subsidiary agreements are only applicable if they have been confirmed in writing by a person on our company register, officially entitled to represent our company.

2.2. A contract is drawn up when an offer is accepted. The content of the contract includes the following: the offer, the supply and trading conditions, the written order confirmation and/or the written order.

2.3. The contract is considered concluded after the order has been received and we have sent a written order confirmation that has not been verifiably rejected by the buyer within 10 days.

2.4. Changes and additions to the contract require our written approval in order to be valid. Purchase conditions from the buyer are only binding for us if we have acknowledged these separately in writing.

2.5. If import and/or export licences, foreign exchange permits or similar permits are required for fulfilling the contract, then the party responsible for procuring these must make every conceivable effort to obtain the required licences or permits in time.

3. Plans and documents

3.1 The weight, measurement, capacity, price, services etc. specifications in the catalogues, brochures, flyers, advertisements, illustrations and price lists and so on are only binding if they are stated explicitly in the offer and/or order confirmation.

3.2 Plans, sketches, price quotes and other technical documentations that can also form part of the offer remain the intellectual property of the seller, along with samples, catalogues, illustrations etc. All use, copying, reproduction, distribution or passing on to third parties, publication and presentation are subject to the explicit permission of the owner.

4. Price and payment

4.1. The prices are ex-works, excluding packaging. The legally applicable VAT is added to the prices. Payments to us are to be made free of transaction charges.

4.2. Billing ensues at the same time as delivery or notification of dispatch. Payment is due in full within 30 days of the invoice date.

4.3. Payment by means of money order, cheque, draft or promissory note is only possible with our explicit written permission. Cost or fees incurred by discounting are charged to the buyer.

4.4. If the payment term is exceeded, a default interest rate of 12% p.a. is charged without further notice. We reserve the right to claim additional default interest charges.

4.5. The buyer is only entitled to withhold payments or to apply counterclaims insofar as the counterclaims are undisputed or legally binding.

4.6. If the buyer is more than seven days late with an agreed payment or instalment, in part or in full, then the outstanding sum is due for immediate payment.

4.7. In the case of binding and non-binding delivery periods of over four months, we are entitled to charge to the buyer any increases in material costs or wages in addition to the agreed price.

4.8. For small orders of less than EUR 75 / net merchandise value we will charge a special processing fee to meet a minimum invoice amount of EUR 75 / net plus the applicable VAT. This is the minimum order value.

5. Delivery and delays

5.1. The delivery term is subject to agreement by the contracting parties. Adherence to this term on our behalf is on the condition that all sales and technical matters have been clarified between the contracting parties and that the buyer has fulfilled all the necessary requirements, e.g. provision of all the required official authorisations or permits, or payment of a deposit. If this is not the case, then the delivery time will be delayed accordingly. This does not apply if we are responsible for the delay.

5.2. Adherence to the delivery term is subject to correct and timely self-supply.

5.3. The delivery term is considered fulfilled if the goods to be delivered have left our plant by the specified delivery date or have been notified as ready for dispatch. If the goods are to be accepted and approved then the approval date applies, unless there is an authorised waiving of approval.

5.4. If the dispatch or the acceptance of the goods is delayed for reasons caused by the buyer then, starting one week after we have notified readiness for dispatch, any costs caused by the delay are charged to the buyer.

5.5. If non-compliance with the delivery term is due to force majeure, strikes or other events that are beyond our control, then the delivery term will be extended accordingly. We will communicate the beginning and end of such circumstances to the buyer as soon as possible.

5.6. If we are responsible for a delivery delay, then the buyer can either demand fulfilment within an appropriate timeframe or withdraw from the contract.

5.7. If the extension period granted in art. 5.6 is not fulfilled on our account, the buyer can withdraw from the contract with regard to all goods not yet supplied, to be communicated in writing. The same applies to all goods already delivered, but which cannot be used appropriately without the missing goods. In this case the buyer has the right to reimbursement of the payments made for goods not delivered or goods received that have been rendered unusable. In addition, insofar as the delivery delay is caused by gross negligence on behalf of the seller, the buyer also has the right to the repayment of any justified expenditure incurred up until the dissolution of the contract. Already delivered and unusable goods are to be returned to us by the buyer. Repayment of expenditure that the buyer is entitled to is limited according to the value of the delivery.

5.8. If an agreed payment or other duty is delayed by the buyer, we can insist either on the fulfilment of the contract and/or one of the following

- a) postpone our own obligations until the due payments or other duties have been fulfilled by the buyer
- b) impose an appropriate delay to the delivery term
- c) declare the whole outstanding purchase price as due for payment
- d) insofar as the buyer has no exonerating reasons in accordance with article 14, as from the due date we charge default interest amounting to 7.5%, in accordance with the basic interest rate of the European Central Bank (see RL/EC regarding the control measures for payment delays in business transactions, of 29 June 2000).

5.9. In any case, the buyer will compensate us for the resulting reminder and operational charges, as additional damages caused by the delay.

5.10 If the buyer has not completed the due payment or other duty upon expiry of the extension period, in accordance with article 5.8, we can withdraw from the contract by written notification. The buyer must return to the seller any goods already delivered upon request and pay compensation for the resulting decrease in value of the goods and for all justified expenditure incurred to us by carrying out the contract. With regard to goods not yet delivered, we are entitled to make these ready or processed

components available to the buyer and to demand the corresponding purchase price for them. Article 7 applies for the transfer of risk.

5.11. Other claims against us by the buyer are excluded due to the delay. The buyer can withdraw without notice from the contract if the whole delivery is declared as definitively impossible before the transfer of risk. The buyer can also withdraw from the contract if the fulfilment of part of the order proves impossible and the buyer has a justifiable cause to reject partial delivery. If this is not the case, then the buyer must pay the agreed price for the partial delivery. The same applies in the event of inability to pay. If this occurs during the delivery delay or if the buyer is solely or primarily responsible for these circumstances then the buyer remains liable for payment.

5.12. If we cause a delay and the buyer – taking legal exceptions into account – grants us an appropriate extension period to fulfil the order and this is not met, then the buyer is entitled to withdraw from the contract in accordance with jurisdiction.

5.8. Articles 12 and 5.7 apply to compensation for damages caused by a delay we are responsible for.

6. Returns

6.1 Returns are not possible if a component or a product was not manufactured especially by the company ss.LUBAC for this order, if it is a product stocked by the company ss.LUBAC and if corresponding claim has been made in writing and received by us within 30 days of delivery date. In addition, the goods must be in a perfect and unused condition, in their original packaging. Goods returned in a perfect condition are credited, minus 30% re-storage costs, and any necessary additional costs. Credit notes are not paid out separately, but are debited from other deliveries or open invoices.

7. Packaging

7.1 Unless agreed otherwise

- a) the indicated prices do not include packaging;
- b) packaging conforms to trade standards, in order to avoid damage to the goods on the way to their destination under normal transport conditions. Packaging is at the expense of the buyer and can only be returned upon agreement.

8. Transfer of risk

8.1 Unless agreed otherwise, the goods are sold “ex-works”. Risk is transferred to the buyer when the delivery has left our plant, including if it is in partial deliveries and we have assumed responsibility for other services, e.g. shipping costs, delivery and assembly. If the goods are to be accepted and approved, then this is decisive for the transfer of risk. This must be carried out without delay on the delivery date. The buyer may not refuse acceptance in the case of an insignificant defect.

8.2. If acceptance of delivery is delayed or does not take place as a result of circumstances beyond our control, the risk is transferred to the buyer from the day that the goods are notified as ready for dispatch or acceptance.

8.3. Advance or partial deliveries are permissible, as long as they are deemed acceptable by the buyer.

8.4. Risk is also transferred to the buyer when the goods are handed over to the transport company. This also applies if the transport company is appointed by us. Transport insurance must therefore be taken out by the buyer.

9. Price

9.1 The prices are based on the costs at the time of price quotation, unless agreed otherwise.

9.2. If the costs should change by the time of delivery, then these changes are credited to or charged to the buyer.

10. Payment

10.1 The payments must be made according to the agreed payment terms. If no alternative payment terms were agreed, then one third of the total price is due upon order confirmation, one third halfway to the delivery date, and the balance upon delivery. Independently of this, the VAT included in the invoice must be paid at the latest 30 days from the invoice issue date.

10.2 The buyer is not entitled to withhold payments because of warranty claims or other counterclaims that have not been acknowledged by us in writing.

11. Retention of proprietary rights

11.1. The goods remain our property until payment in full by the buyer.

11.2. Acquisition of the reserved goods by the buyer for reprocessing is not permissible, other than any authorised reprocessing undertaken by the buyer on our behalf. To safeguard us, the reprocessed goods retain the same value as the reserved goods.

11.3. If reprocessed in combination with other goods not owned by us, we retain co-ownership of the value of the reserved goods relative to the other processed goods during the reprocessing. For the new item resulting from the reprocessing, our same terms and conditions apply as to the reserved goods.

11.4. The resale of reserved goods to third parties is prohibited. If a resale does nevertheless take place and incurs damages for us, then the buyer is liable for these damages. The receivables gained by the buyer from the resale of the reserved goods are assigned to us, regardless of whether the reserved goods were sold before or after processing and whether they are sold to one or more parties. The assigned receivables amount to the value of the reserved goods, to safeguard us. We are entitled to assign claims for supply and delivery for financial purposes.

11.5. The buyer is entitled to collect the accounts receivable from the resale, despite the assignment. Our collection authority is not affected by this. However, we will not collect the accounts receivable as long as the buyer meets their payment requirements duly. At our request the buyer must inform all debtors of the assigned claims to provide all the necessary details for collection and the associated documentation and to notify the debtors of the assignment.

11.6. For the duration of title retention, pledging of securities with regard to the goods is not permissible.

11.7. Interventions by the buyer's creditors, in particular in the case of seizures, must be notified by the buyer to us by means of a registered letter and by sending a seizure report, as well as a statutory declaration with regard to the identity of the seized object. The buyer bears the costs for measures to resolve the intervention, especially third party claims and proceedings, if they cannot be collected from the opposing party. The buyer also bears all costs incurred for retrieving the object of purchase.

11.8. Exercising title retention and the seizing of the supplied goods by us do not constitute withdrawal from the contract.

11.9. The buyer is obliged to keep the purchased goods in perfect condition at their own expense for the duration of the reservation of title.

11.10. In case of non-payment by the buyer for the goods we have supplied, we reserve the right to retrieve the conditional goods at the expense of the buyer. The buyer also accords us control and inspection rights and is obliged to make production and storage facilities for the reserved goods accessible to us for the purposes of inspection and checking.

12. Warranty

12.1 We are obliged to remedy any fault that compromises usability, caused by a manufacturing, material or performance defect. We are also responsible for defects relating to explicitly specified properties. The onus of proof with regard to defects lies with the buyer within the first six months of delivery.

12.2 Our warranty obligation only applies to defects that occur within the period of one year from transfer of risk, or delivery and completion of assembly.

12.3 The buyer can only make a claim for the article if they have notified us of the defect in writing as soon as the defect was identified. If this notification obligation is disregarded by the buyer then the warranty and claims for damages are no longer applicable. The buyer must accord us the required time and opportunity to carry out any improvements and replacement deliveries we deem necessary, otherwise we waive liability for any resulting consequences.

12.4. If we are informed of such a defect duly, we can choose one of these options:

- a) to amend or correct the faulty goods straight away on site;
- b) to have the faulty goods or components returned to us to be amended or corrected;

c) to replace the faulty components;

d) to replace the faulty goods.

12.5. If we have the faulty goods or components sent back to us to be corrected, then the buyer bears the costs and responsibility for the transport, unless agreed otherwise. The returning of the corrected or replaced goods or components to the buyer is at our expense and risk, in the case of a substantiated defect, unless agreed otherwise.

12.6. The faulty goods or components replaced in accordance with this article remain at our disposal.

12.7. We only cover the costs of a remediation of defects carried out by the buyer themselves if we have authorised this in writing beforehand.

12.8. Our warranty obligation only applies to defects that occur despite adherence to the prescribed operational conditions and normal usage. It does not apply to defects occurring due to: poor installation by the buyer or their representatives, poor maintenance, poor repairs or modifications by a person other than the buyer or its representatives, carried out without the written permission of the buyer, and normal wear and tear.

12.9. We are only liable for those components that we obtained from a sub-supplier specified by the buyer to the extent that we have the right to submit warranty claims to the sub-supplier. If a product is manufactured by us according to the buyer's specifications, drawings or models, then we are not liable for its technical correctness, only for its execution according to the buyer's specifications. In these cases, the buyer is responsible for indemnifying us with regard to any infringement of property rights. We do not accept liability for repair work, changes or modifications to old or third-party goods, or delivery of used goods.

12.10. From the start of the warranty period, we do not accept any further liabilities than those already specified for this article.

13. Liability

13.1 It is considered explicitly agreed that we are only liable to compensate the buyer for damages in the case of gross negligence. The reversal of the burden of proof according to § 1298 ABGB (Austrian Civil Code) is excluded.

13.2 The object of purchase only ensures the safety that can be expected on the basis of licensing regulations, operational instructions, our regulations and guidelines for handling the object of purchase – especially with regard to prescribed inspections and other advice given.

13.3 We are therefore not liable in any case of minor negligence. In the case of physical injury due to minor negligence attributed to us, our liability is limited to the coverage of our liability insurance.

13.4 All claims for compensation of damages for defective deliveries and/or services expire within six months of gaining knowledge of the damage and liable party. The absolute period of limitation within

which claims for damages can be made to us is a period of 10 years, which corresponds to the tax depreciation of the object of purchase.

14. Consequential damages

14.1 Unless otherwise specified in these conditions, we have no liability towards the buyer for production stoppage, lost profits, loss of use, contractual losses or any other economic or indirect consequential damage, as well as damages to goods that do not form part of the contract.

15. Grounds for exoneration

15.1 The parties can waive the timely fulfilment of the contract in full or in part if prevented from doing so due to force majeure. Such events are restricted exclusively to those that are unforeseeable and unavoidable for the parties and are beyond their control. Strikes and industrial action are regarded as force majeure events. The buyer impeded by force majeure can only plead as such if it is notified to us immediately, at the latest within 5 calendar days of the start of such an event, in the form of a registered letter stating the beginning and envisaged end of the obstruction, confirmed by the respective governmental authority or chamber of commerce of the country of delivery, with a statement of the cause, the expected impact and duration of the delay. In the case of force majeure, the parties undertake to do everything within their power to overcome or minimise difficulties and foreseeable damages and to keep the other party continuously informed, otherwise the party becomes liable for damages towards the other. Dates or time limits that can no longer be adhered to because of the impact of force majeure are extended for a maximum of the duration of such an impact, or a period of time to be agreed by both parties. If a period of force majeure lasts for longer than four weeks the buyer and seller will seek a solution for handling the impact through negotiation. If no mutual solution can be found, we can withdraw from the contract in part or in full.

16. Data protection

16.1 We are entitled to store, pass on, process and delete personal data of the buyer in the context of the business transaction.

16.2 The parties are bound to absolute confidentiality towards third parties with regard to knowledge gained from the business transactions.

17. Place of jurisdiction, applicable law, place of fulfilment, partial ineffectiveness

17.1 The place of jurisdiction for all disputes arising directly or indirectly from the contract is the local Austrian court responsible for our head office – 4820 Bad Ischl, Austria. However, we can also summon the court applicable to the buyer.

17.2 The parties can also agree on jurisdiction by an arbitration court.

17.3 The place of fulfilment for supply and payment is our head office, even if the handing over takes place in a different location, in accordance with the agreement.

17.4. If individual conditions prove not to be applicable, the remaining general supply and payment conditions and the contract are still binding. The corresponding jurisdiction replaces inapplicable conditions.

17.5. In addition, our separate Assembly Conditions apply to all assembly work.