
GENERAL TERMS AND CONDITIONS OF PURCHASE

GENERAL TERMS AND CONDITIONS OF PURCHASE OF LESSWIRE GMBH, AS AT 9 FEBRUARY 2015

Applicable to business transactions with companies, legal entities under public law and special funds under public law.

1 Scope

1.1 The following terms and conditions of purchase apply exclusively to our orders. We do not recognise any amendments or additions or any terms and conditions of the supplier which are contrary to or differ from the terms and conditions of purchase below, unless we have confirmed them in writing as supplements to our terms and conditions of purchase and consent has thereby been provided to their validity. Any acceptance of deliveries or services or unconditional payment for these by us does not signify consent to the supplier's terms and conditions of sale, including in those cases where these are positively known to us.

1.2 Our terms and conditions of purchase also apply to all future transactions with the supplier.

2 Orders

2.1 Contracts, orders, transactions and delivery call-offs, as well as any amendments or additions to these must be in written form. Delivery call-offs may also be made via remote data transmission or fax.

2.2 Oral agreements made after entering into the contract, in particular subsequent amendments and additions to our terms and conditions of purchase – including this clause requiring written form – along with side agreement of any kind also require written confirmation from us in order to be effective.

2.3 Cost estimates are binding and will not be remunerated unless expressly agreed otherwise.

2.4 The supplier is under an obligation to accept our order within a period of 2 weeks, otherwise we are entitled to revoke it. Delivery call-offs are binding unless the supplier objects to these within 5 working days following receipt.

2.5 In the event of regular recurring orders or delivery call-offs the orders/call-offs entitle the supplier only to produce the quantities stated for the first 4 (four) weeks (production approval) and to provide for material cover for a further 4 (four) weeks (material approval). Provided that no amendment has been made to the orders/call-offs, the production approval period will be extended accordingly based on the last order/call-off transmitted. Material approvals in excess of this can only be provided following prior written approval from our corresponding specialist department.

2.6 Unless more extensive requirements are set out in the order the items delivered must be provided in accordance with standard commercial quality and – provided that there are industrial standards and/or regulations such as equivalent norms – in accordance with these plus with any agreed test certificates.

2.7 Order norms and standards and designs including any statements on tolerance levels specified by us in an individual case are binding. By accepting the order the supplier acknowledges that it has taken note of the type of design and scope of the delivery by inspecting the existing plans. We are under no obligation with regard to obvious mistakes, typing errors or miscalculations in the order itself, or in the documents, designs and plans submitted by us. The supplier is under an obligation to inform us of these types of error, so that our order can be corrected and replaced. This also applies in the event of missing documents or designs.

2.8 We retain the title to and copyright in images, designs, calculations, concepts and other documents transmitted to the supplier; they may not be provided to third parties without our express written consent, particularly in cases where they have been designated as confidential. The documents may only be used for the purposes of order execution and must be returned to us without being requested once the order has been processed.

3 Prices, payment terms

3.1 The price stated in the order is binding. In the absence of any divergent written agreement the price includes delivery "free to the door", delivered duty paid (DDP in accordance with Incoterms 2010), incl. of packaging and insurance but not including VAT, or delivery to the delivery location stated in the order. Otherwise the supplier must provide the goods in good time with due regard to the time to be agreed with the freight forwarder for loading and dispatch. In the event that we are charged separately for packaging in an exceptional case based on an alternative agreement then we shall be entitled to return this carriage paid to the supplier in return for a credit of 2/3 of the value arising from the invoice for the packaging. Only environmentally-friendly packaging materials may be used by the supplier. In the event that the parties agree on charging for packaging this must be charged exclusively at net cost price.

3.2 Unless otherwise agreed in writing we will pay the purchase price on the 25th day of the month following the delivery with a 3% discount from the gross invoice amount, or within 90 days net following invoice receipt, with our payment being conditional upon the fact that the supplier has previously provided all of the documents owed under the contract in full and in a legible format (e.g. certificates, documentation, test reports and similar documents). If the goods are received after the invoice has been received then the payment period shall begin on the date that the goods have been received. Payment will be made subject to verification of the invoice.

3.3 If the supplier reduces its prices by the delivery date then we will also benefit from the reduction.

4 Delivery deadline, default of delivery

4.1 The delivery periods and deadlines stated in the order are binding. They start from the date of the order. The crucial factor in determining adherence to the delivery deadline or delivery period is the time that the goods are received by us or that the service is provided to us. Unless delivery is agreed "carriage and duty paid" (DAP or DDP in accordance with Incoterms 2010), the supplier must provide the goods in good time with due regard to the time to be agreed with the freight forwarder for loading and dispatch.

4.2 If the supplier has accepted responsibility for installation or assembly, then subject to any divergent regulations the supplier will be responsible for paying all required ancillary costs such as travel costs, provision of tools plus expenses.

4.3 The supplier is under an obligation to notify our ordering department in writing without delay in the event that any circumstances of any kind arise or become recognisable which result in the fact that the agreed delivery deadline cannot be met.

4.4 Force majeure, industrial conflicts, operational breakdowns not based on fault, riots, official actions and other unavoidable events entitle us to withdraw from the contract in whole or in part – without prejudice to our other rights – provided that the duration of these is not insignificant.

4.5 We are under no obligation to accept a delivery provided prior to the expiry of the delivery deadline. In this event we reserve the right to return the item delivered at the supplier's expense. If we do not return the item in the event of an early delivery, then the item delivered will be stored by us at the supplier's expense and risk until the agreed delivery date. Payment will be made in accordance with point 3.2, calculated from the agreed delivery date.

4.6 In the event that the supplier is in default of delivery we will be entitled to demand damages for default at an amount of 0.8% of the order value for each working day, and up to no more than 10% of the order value. More extensive statutory claims remain reserved (in particular withdrawal from the contract or damages for non-fulfilment).

4.7 Unconditional acceptance of the delayed delivery or service does not imply a waiver of the claims for compensation to which we are entitled on account of the delayed delivery or service; this applies up until payment in full of the consideration owed by us for the relevant delivery or service.

4.8 Partial deliveries may not be made unless we have expressly agreed to them (in writing) or they are deemed acceptable for us.

4.9 The crucial factors regarding numbers of items, weights and dimensions are those values ascertained by us during the goods receipt inspection, subject to any other evidence available. We will only accept the ordered quantities or numbers of items. Deliveries of excess quantities or shortages are only permissible following prior (written) agreement with us.

4.10 In addition to the right to use the software which is supplied as part of the delivery of the product, including its documentation, to the extent permissible by law (Sections 69a et seq. of the German Copyright Act - UrhG), we also have the right to use it with the agreed performance features and within the scope required for use of the product in accordance with the contract. We may also create a backup copy without express agreement.

4.11 The supplier must package the goods in an appropriate manner.

4.12 We assume that as a distributor of goods the supplier has comprehensive knowledge of the potential hazards for its goods related to shipping, packaging, storage, etc. Before accepting an order it must therefore check whether the goods and/or components stated in the order need to be classified as hazardous goods (e.g. colours, adhesives, chemicals or flammable, oxidising, explosive, combustible, poisonous, radioactive or toxic goods or goods with self-heating tendencies). It must notify us immediately in these cases.

5 Transfer of risk

Risk is transferred to us upon acceptance of the goods by us or our representatives at the location where the goods are to be delivered or the service provided in accordance with the order. Point 4.5 remains unaffected by this.

6 Shipment notification and invoice

The statements provided in our orders and delivery call-offs apply. A single copy of the invoice must be sent to the address printed with the invoice number provided and other identifying features; it must not be enclosed with the shipments.

7 Examination for defects, warranty

7.1 We are under no obligation to check the goods once received. We endeavour to examine the goods for freedom from defects, in particular for correctness, completeness and suitability using spot checks, to the extent that this is feasible in the ordinary course of business. Application of Section 377 of the German Commercial Code (HGB) is excluded where permissible. In any case a notification of defects within 30 days from discovery of the defect or other reasons for objection is on time. The supplier waives the defence of delayed notification of defects.

7.2 We are entitled to the statutory warranty claims in full and these are applied unless otherwise agreed below. Irrespective of this we are entitled to demand from the supplier a rectification of the defect or a replacement delivery at our discretion. In this case the supplier will be responsible for the expenditure required for the purposes of rectifying the defect or supplying the replacement delivery. The right to claim damages remains reserved for us.

7.3 In the event that the supplier does not begin to rectify the defect without delay following our demand for rectification of the defect, then in urgent cases, in particular for the purposes of preventing severe hazards or to prevent greater damage, we are entitled to carry this out ourselves or have it carried out by a third party at the supplier's expense.

7.4 The warranty period is 36 months from the point that risk is transferred, unless the minimum warranty period prescribed by statute is longer or the item has been used for a building in accordance with its standard usage and has caused its defectiveness.

7.5 In the event of defects of title the supplier will also release us from any claims from third parties, unless the supplier is not responsible for the defect of title. Defects of title are subject to a limitation period of ten years. We are entitled at the supplier's expense and with due regard to the duty of care of a reputable trader to implement measures to bring about the approval to use the relevant items delivered and services from the legitimate entitled party.

7.6 The supplier guarantees that all deliveries are free from third-party property rights, and in particular, that there is no infringement of patents, licences or other third-party property rights within Germany through the delivery and usage of the items delivered. If the supplier is aware that its products will also be sold by us in certain countries then the previous regulation also applies in relation to these countries.

7.7 The limitation period for parts of the delivery maintained or repaired within the limitation period for our claims for defects or for replacement deliveries provided within the scope of the supplier's obligation to provide supplementary performance begins again from the point in time that the supplier has fulfilled our claims for supplementary performance in full.

7.8 If we incur costs as a result of the defective delivery of the item under the contract, in particular transportation and travel, material and sorting costs for a goods-in inspection beyond the normal scope then the supplier will be responsible for these costs. We are

entitled to carry out the inspection using the spot-check procedure, and to reject the goods in full or check 100% of the goods at the supplier's expense and risk and demand reparation for the defective parts, without prejudice to our other claims in the event of a violation of the permissible limit quality values and/or AQL values.

7.9 We reserve a right of recourse against the supplier if we take back products manufactured and/or sold by us as a result of the defective nature of the items supplied by the supplier under the contract or if our purchase price was reduced because of this or if claims were asserted against us in any other way through this. No separate time limit needs to be set for this.

7.10 We are entitled to demand compensation from the supplier for expenditure which we have had to bear in relation to our customer because the latter has claimed compensation for the expenditure required for the purposes of supplementary performance, in particular transportation and travel and labour, materials and sorting costs.

7.11 Irrespective of the regulation in point 7.4 the limitation in cases 7.9 and 7.10 takes effect at the earliest after the time that we have fulfilled our customer's claims directed against us, and no later than five years following delivery by the supplier, unless the statutory warranty period is longer.

7.12 If a material defect is revealed within six months following the transfer of risk then it will be assumed that the defect was present when the risk was transferred, unless this assumption is incompatible with the type of item or defect.

8 Product liability, indemnity

If claims are asserted against us on account of a breach or official safety regulations or based on domestic or foreign product liability regulations or laws on account of the defective nature of the product which is attributable to the supplier's goods, then we shall be entitled to demand compensation for this damage from the supplier, provided that this was caused by the products supplied by it. This damage also includes the costs of any required product recall. If a fault occurs with a part provided by the supplier, it will be assumed that the fault occurred exclusively within the supplier's area of responsibility.

9 Retention of title, items supplied

9.1 We retain the title to any parts which we supply to the supplier. These may only be used for their intended purpose. Any processing work or remodelling carried out on them by the supplier will be completed for us. If our goods in which we retain title are processed or mixed with other items which do not belong to us, we acquire co-ownership in the new item at the ratio of the value of our item (purchase price plus VAT) to the other processed items at the time of the processing work.

9.2 If the item provided by us is mixed with other items which do not belong to us and cannot be separated, then we acquire co-ownership in the item at the ratio of the value of the item in which we retain title (purchase price plus VAT) to the other mixed items at the time of mixing. If the mixture occurs in such a way that the supplier's item is to be viewed as the main item, then it is agreed that the supplier will assign proportionate co-ownership to us; the supplier will keep the sole or co-ownership in safe custody for us.

10 Rights of withdrawal and termination

10.1 Above and beyond the statutory rights of withdrawal we are also entitled to withdraw from or to terminate the contract with immediate effect if

- the supplier has discontinued supplies to its customers,
- the supplier breaches an obligation from the supply agreement and does not provide redress within a reasonable period not exceeding 30 days from notification of the breach of obligation,
- there is an essential deterioration in the supplier's financial situations or threat of such a deterioration and the fulfilment of a delivery obligation to us is put at risk through this,
- the supplier becomes insolvent or is subject to excessive debt, or
- the supplier discontinues making its payments.

10.2 We are also entitled to withdraw from or terminate the contract if the supplier makes an application for the opening of insolvency or similar proceedings for settlement of its debts.

10.3 If the supplier has effected partial performance then we are only entitled to withdraw from the entire contract if we have no interest in the partial performance.

10.4 If we withdraw from or terminate the contract on account of the above rights of withdrawal or termination, the supplier must compensate us for the damage incurred through this, unless it is not responsible for the facts giving rise to the rights of withdrawal or termination.

10.5 Statutory rights and claims are not limited as a result of the regulations contained in this point no. 10.

11 Liability

We are not liable for damage which we, our legal representatives or vicarious agents have caused through slight negligence. This applies without regard to the legal nature of the

claim asserted, in particular on account of default, another breach of obligation or tortious acts. This limitation of liability does not apply to damage from injury to life, limb or health or from the breach of essential contractual obligations. In the event of a breach of non-essential contractual obligations we are only liable to the extent and the amount which could normally be expected through its occurrence upon entering into the contract. The supplier is liable for all damage which it, its legal representative or vicarious agent has caused through negligence or wilful intent.

12 Right of offset

Our right of offset or to exercise a right of retention cannot be restricted. The supplier is only entitled to offset counterclaims if and to the extent that these are undisputed or have been determined in law.

13 Documents and confidentiality

13.1 All business or technical information provided by us (including features which can for instance be taken from the items, documents or software to be handed over, and other knowledge or experience) must be kept secret from third parties unless they are obviously demonstrably known to the public, and may only be provided to those individuals in the supplier's own company who are required to use it for the purposes of executing the delivery to us and who have also been placed under a duty of confidentiality; such information remains our exclusive property. Except for the purposes of delivery to us, this information or products manufactured or distinguished with this type of information and manufacturing equipment, brands and designs may not be reproduced or used on a value basis or ultimately provided to third parties without our prior written consent. At our request all information originating from us (where applicable including copies or records made of this) and items lent by us must be returned to us or destroyed without delay and in their entirety. We reserve all rights to such information (including copyrights and the right to register industrial property rights such as patents, utility patterns, integrated circuit design protection, etc.). If this has been provided to us by third parties then this legal reservation also applies for the benefit of these third parties.

13.2 Products which have been completed in accordance with documents drafted by us, such as drawings, models, etc. or in accordance with our confidential information or with our tools or recreated tools may not be used by the supplier itself nor may they be offered or provided to third parties.

This also applies analogously to our print orders.

14 Work execution

14.1 Individuals executing work activities at our company premises in fulfilment of the contract must observe the regulations in the relevant plant rules. Liability is excluded for accidents which occur to these individuals on the company premises, provided that they did not occur through a wilful or grossly negligent breach of obligation on the part of our legal representatives or vicarious agents.

14.2 The supplier who has to provide services or work performance on our company premises must ensure that its legal representatives, vicarious agents and other employees have adequate insurance protection against occupational accidents.

15 Termination for just cause

15.1 If termination for just cause is provided for under statute or contract for continuing obligations then the following are considered just cause for the purposes of termination of the contract:

- a) essential breaches of the contractual provisions, which also includes the terms and conditions which have become contractual content, namely those on the scope of usage granted, i.e. breaches of property rights by the supplier to which we and/or the manufacturer of delivered software are entitled;
- b) refusal to provide performance by the supplier;
- c) default by the supplier with its delivery, performance or default rectification obligations by more than six (6) weeks;
- d) the supplier's inability to pay, opening of insolvency proceedings in relation to its assets or rejection of an application to open insolvency proceedings for lack of assets.

15.2 Termination must be in written form in all cases.

15.3 We are entitled to terminate a contract with a term of more than one year or with an unlimited term after twelve (12) months at the earliest with a notice period of three months with the aim of a general revision of the contractual terms and conditions.

15.4 The rights to extraordinary termination to which the parties are entitled through statute remain unaffected by the regulations in this point 15.

16 Place of fulfilment, place of jurisdiction

16.1 Unless otherwise provided through the contract the place of fulfilment is the place where the goods are to be delivered under the order or where the service is to be provided.

16.2 The place of jurisdiction for all legal disputes which arise indirectly or directly from the contractual relations which these terms and conditions of purchase give rise to is Berlin. However, we are entitled at our discretion also to bring an action against the supplier at its place of business or at the location of its branch or at the court of the place of fulfilment.

17 Export control, REACH

17.1 The supplier is under an obligation to inform us of any approval obligations for exports of its goods under German, European, US export and customs regulations as well as the export and customs regulations of the country of origin for its goods on its quotes, order confirmations, invoices and other business documents, and to appoint a contact in its company for the purposes of clarifying any queries.

17.2 The supplier undertakes to adhere to any provisions in the European Regulation (EC) No. 1907/2006 (REACH). It warrants that its products are registered in accordance with the Regulations with due regard to the use known to it. It will comply with its obligations without delay, e.g. creation and issuing of a safety data sheet.

18 General provisions

18.1 In case of doubt the German version shall have overriding priority in the event of any discrepancies between the German and English versions of these General Terms and Conditions of Purchase.

18.2 German law applies exclusively to any disputes arising from this contractual relationship and to the contractual relations with us, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and the conflict of laws.

18.3 In the event that any provision in these terms and conditions and in the additional agreements made is or becomes ineffective this will not affect the effective nature of the remaining terms and conditions. The partners to the contract are under an obligation to replace the ineffective provision with a regulation which most closely approximates the ineffective provision in terms of its economic success. The same applies accordingly to loopholes in the regulations.