

## **I. Scope**

1. These Terms and Conditions of Purchase apply only to entrepreneurs pursuant to Section 310 (1) of the German Civil Code (BGB) (hereinafter referred to as "Supplier" or "Suppliers"). They are supplemented by our sustainability guidelines for business partners.
2. Individual agreements made with the Supplier in individual cases (including collateral agreements, supplements and amendments) shall in any event take precedence over these Terms and Conditions of Purchase. Subject to proof to the contrary, a written contract or the written confirmation of LISSMAC shall be authoritative for the content of such agreements.
3. We do not recognise any terms and conditions of the Supplier and they shall not become part of the contract, even if their agreement is not expressly objected to at the time of and after the conclusion of the contract. Anything to the contrary shall only apply if and to the extent that LISSMAC expressly agrees in writing to the inclusion of the Supplier's terms and conditions.
4. If goods or services are accepted by LISSMAC without express objection, the inclusion of the Supplier's terms and conditions of business can under no circumstances be inferred therefrom. Conflicting terms and conditions shall not affect the formation of the contract if the parties have agreed on all material points. In this case, the concordant provisions of the mutual terms and conditions of business shall apply to the interpretation and, for the rest, the statutory provisions shall apply.

## **II. Order, conclusion of contract and confidentiality**

1. Only orders placed in writing by LISSMAC are legally binding. Orders placed orally or by telephone must be confirmed in writing by LISSMAC in order to be valid.
2. If the Supplier does not accept LISSMAC's order within ten working days of receipt, LISSMAC shall be entitled to revoke the order without the Supplier being able to derive any claims therefrom.
3. Delivery call-offs shall become binding at the latest if the supplier does not object within five working days of receipt.
4. LISSMAC may request changes to the delivery item within the scope of reasonableness for the Supplier. In this case, the effects, in particular with regard to additional and reduced costs as well as delivery dates, shall be settled by mutual agreement in an appropriate manner.
5. The conclusion of the contract shall be treated confidentially by the Supplier. In addition, the Supplier may only refer to the business relationship with LISSMAC in advertising materials and reference lists after the written consent of LISSMAC.
6. The supplier undertakes to treat as business secrets all commercial or technical details which are not in the public domain and which become known to him through the business relationship. Sub-suppliers are to be obliged accordingly.
7. The Supplier is obliged to keep all illustrations, drawings, moulds, samples, models, profiles, sketches, standard sheets, printing templates, gauges and other documents and information received strictly confidential; at LISSMAC's request, they must be completely destroyed or returned to LISSMAC after completion of the order. They may only be made accessible to third parties with the express written consent of LISSMAC.

### **III. Offers and prices**

1. Offers to LISSMAC must be made in writing within the meaning of §§ 126, 126a of the German Civil Code (BGB), must be complete (i.e. including all requested services) and free of charge.
2. Prices are fixed prices and, unless otherwise agreed, are understood to be free LISSMAC's premises or free LISSMAC's premises at the expressly agreed destination and including packaging. The return of packaging shall require special agreement. All prices shall be quoted with a designation of the currency, generally in EUR. Price increases after the offer shall not apply to LISSMAC.
3. If no prices are specified in the order, the Supplier's current list prices shall apply with the customary deductions. If the price is not fixed when the order is placed, it must be quoted to LISSMAC at the latest when the order is accepted. If LISSMAC does not object within eight working days of receipt of the order confirmation, the price stated by the Supplier shall be deemed to have been approved.

### **IV. Delivery times, delivery dates and delay in delivery**

1. Agreed delivery periods and dates are binding. The specified delivery date is the date on which the goods must arrive at LISSMAC, or at the expressly agreed destination. Any delays in delivery shall be notified to LISSMAC in writing without undue delay, stating the reasons and the expected duration of the delay.
2. Partial deliveries are only permissible with the express consent of LISSMAC.
3. In the event of a delay in delivery, LISSMAC shall be entitled to claim liquidated damages for delay in the amount of 0.5 per cent of the delivery value per week or part thereof, but not more than 5.0 per cent; LISSMAC reserves the right to assert further statutory claims. LISSMAC reserves the right to assert the contractual penalty until the delivery has been paid in full. The Supplier shall be entitled to prove to LISSMAC that no damage or substantially less damage has been incurred as a result of the delay.
4. In all other respects, the statutory provisions shall apply.

### **V. Shipping and delivery conditions**

1. Unless otherwise agreed in writing, all deliveries shall be made carriage paid to LISSMAC or carriage paid to the expressly agreed destination and shall include packaging. In all cases, the transport risk shall be borne by the Supplier. The LISSMAC order reference and subject notes must be indicated on all shipping documents. Furthermore, a detailed delivery note with the aforementioned marks must be enclosed with each shipment. The Supplier shall bear the risk of delay in delivery if processing at LISSMAC cannot take place in due time due to the lack of the aforementioned marks.
2. If delivery ex works has been agreed, LISSMAC shall receive a duplicate consignment note in addition to the delivery note. In this case, the most favourable shipping method for LISSMAC shall be selected. If the Supplier has to choose a more expensive shipping method in order to avoid or as a result of delays in delivery, LISSMAC shall not bear the additional freight costs.
3. LISSMAC is a prohibition customer within the scope of the forwarding and cartage insurance and waives the coverage of the SLVS. Insurance costs will not be borne by LISSMAC.

## **VI. Transfer of risk**

The risk shall pass to LISSMAC when the delivery is handed over to LISSMAC in its works or at the expressly agreed destination in a proper and defect-free manner.

## **VII. Invoicing**

Invoices must be submitted to LISSMAC in a verifiable form together with the delivery of the goods or the performance of the service, stating the complete order data (= order number and article number per item), and may under no circumstances be enclosed with the consignment of goods. Partial invoices are only possible if corresponding partial deliveries or partial services were agreed. Invoices with incomplete and unverifiable order details shall be rejected by LISSMAC and shall be settled after receipt of the correspondingly supplemented invoice, after the agreed discount period, with deduction of the agreed discount.

## **VIII. Terms of payment**

1. Unless otherwise agreed, invoices shall be paid 14 days after proper and complete receipt of the invoice with a three percent discount, or 30 days net. The payment period begins at the earliest with the receipt of the mail, but not before the receipt and acceptance of the ordered, proper goods or services rendered.
2. LISSMAC does not recognise interest on arrears or the restriction of the right to refuse performance, the right of retention and the right of set-off.
3. If partial payment has been agreed, the supplier shall submit directly enforceable bank guarantees on first demand for all partial amounts paid prior to delivery together with the request for payment.
4. LISSMAC shall be entitled to rights of set-off and retention to the extent provided by law.

## **IX. Subcontracting**

The Supplier is not permitted to pass on orders from LISSMAC in their entirety to subcontractors. The order may only be processed by the Supplier itself. Furthermore, the Supplier is not permitted to have its customer orders processed by LISSMAC employees. In exceptional cases, prior written approval by LISSMAC is required.

## **X. Force majeure, industrial action**

1. All events of force majeure as well as all industrial action, in particular strikes and lockouts, shall release LISSMAC from its contractual obligations for the duration of their occurrence and a reasonable start-up period thereafter.
2. LISSMAC shall be released from the obligation to accept the ordered delivery or service in whole or in part and shall be entitled to withdraw from the contract in this respect if the delivery or service can no longer be utilised by LISSMAC - taking into account economic aspects - due to the delays caused by force majeure or the industrial action.

## **XI. Examination of defects and liability for defects**

8. LISSMAC shall be obliged to inspect the goods within a reasonable period of time for any deviations in quality and quantity; the complaint shall be deemed to have been made in good time if it is received by the Supplier within a period of five working days, calculated from receipt of the goods or, in the case of hidden defects, from discovery.

9. LISSMAC shall be entitled to the statutory claims for defects in full; in any case, LISSMAC shall be entitled to demand that the Supplier, at LISSMAC's discretion, remedy the defect or deliver a new item. The right to claim damages, in particular damages in lieu of performance, is expressly reserved.
10. LISSMAC shall be entitled to remedy the defect itself at the Supplier's expense if the Supplier is in default with subsequent performance.
11. The limitation period shall be 24 months from acceptance at LISSMAC or twelve months from acceptance at LISSMAC's customers, unless otherwise specified in the order or unless longer periods apply by law. The liability for defects for spare parts shall be twelve months after installation or commissioning. It shall be presumed in LISSMAC's favour that a material defect arising within the defect liability period was already present at the time of the transfer of risk.
12. The other mandatory provisions of the delivery recourse remain unaffected.

## **XII. Product liability**

1. If the Supplier is responsible for product damage, it shall be obliged to indemnify LISSMAC against claims for damages by third parties upon first request to the extent that the cause lies within its sphere of control and organisation and it is itself liable in relation to third parties.
2. The Supplier shall reimburse LISSMAC for all expenses necessary to remedy or avert damage caused by the defective product delivered by the Supplier.
3. The Supplier undertakes to maintain a product liability insurance with an appropriate sum insured for personal injury/property damage - lump sum. If LISSMAC is entitled to further claims for damages, these shall remain unaffected.
4. The Supplier shall carry out quality assurance which is suitable in terms of type and scope and which corresponds to the state of the art and shall provide LISSMAC with evidence thereof upon request. The Supplier shall conclude a corresponding quality assurance agreement with LISSMAC to the extent LISSMAC deems this necessary.

## **XIII. Industrial property rights**

1. The supplier shall be liable for ensuring that no industrial property rights or other rights of third parties are infringed by the use of the delivered goods.
2. The Customer shall indemnify LISSMAC against all claims of third parties arising therefrom and shall reimburse LISSMAC for all necessary expenses incurred in connection therewith.
3. LISSMAC reserves the sole property rights, industrial property rights and copyrights to samples, models, illustrations, drawings, calculations or other documents and files which LISSMAC makes available to the Supplier. They are subject to strict confidentiality and may not be made available to third parties without the express consent of LISSMAC. They may not be used for the Supplier's own purposes or those of third parties and must be returned to LISSMAC free of charge after completion of the order.

## **XIV. Retention of title**

1. The supplier is entitled to ownership of the delivered goods until full payment has been made (simple retention of title).
2. If LISSMAC provides parts to the Supplier, LISSMAC shall retain title thereto. Processing or transformation by the Supplier shall be carried out for LISSMAC. If the reserved goods are processed by LISSMAC with other

items not belonging to LISSMAC, LISSMAC shall acquire co-ownership of the new item in the ratio of the value of LISSMAC's item to the value of the other items.

- LISSMAC retains ownership of tools, moulds and models - unless otherwise stated in the order; the Supplier is obliged to use the tools, moulds and models exclusively for the manufacture of the goods ordered. The Supplier shall insure the tools, moulds and models at replacement value against fire, water and theft at its own expense. He is obliged to carry out any necessary maintenance and inspection work in good time at his own expense. The Supplier shall notify LISSMAC immediately of any malfunctions; if the Supplier culpably fails to do so, claims for damages shall remain unaffected.

## **XV. Proofs of origin, proofs under sales tax law and export restrictions**

- The Supplier shall provide LISSMAC with any proofs of origin requested by LISSMAC with all the necessary information and duly signed without delay. The Supplier shall notify LISSMAC in writing without delay and without being requested to do so if the information in the proofs of origin for the delivered goods is no longer applicable.
- The same applies to proof of foreign and intra-Community deliveries for VAT purposes.
- The Supplier shall inform LISSMAC without delay if a delivery is subject in whole or in part to export restrictions under German or any other law.

## **XVI. Compliance with the statutory minimum wage**

- Within the scope of the performance of the supply and service contract, the supplier undertakes to comply with all statutory provisions, in particular the Act on the Regulation of a General Minimum Wage of 11.08.2014 (Mindestlohngesetz - MiLoG) as amended from time to time, and shall pay its employees a wage at least equal to the statutory minimum wage applicable from time to time.
- The Supplier shall indemnify LISSMAC within the scope of the supply and service contract against all claims in connection with § 13 MiLoG. This shall also apply to any necessary costs incurred by LISSMAC due to the assertion of claims by employees or third parties (e.g. social insurance carriers). This shall also include legal fees in accordance with the German Lawyers' Fees Act (Rechtsanwaltsvergütungsgesetz - RVG) for any necessary extrajudicial and judicial legal defence.

## **XVII. Material Compliance**

With its delivery, the supplier undertakes to comply with all regulations and standards applicable in Germany and the EU which relate to the contractual products/goods (materials, components, assemblies, etc.) in the version applicable at the time of the transfer of risk. This includes in particular Regulation (EC) No. 1907/2006 on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH Regulation).

The Supplier also undertakes to enable LISSMAC to comply with its obligations under Directive 2011/65/EU (RoHS Directive) or the Directive on the Restriction of the Use of Hazardous Substances in Electrical and Electronic Equipment (ElektroStoffV), as well as the Chemicals Act ChemG in their respective applicable versions.

## **XVIII. Assignment**

Without the written consent of LISSMAC, which may not be unreasonably withheld, the Supplier shall not be entitled to assign its claims against LISSMAC or to have them collected by third parties. If the Supplier assigns its claims without the written consent of LISSMAC, the assignment shall nevertheless be effective. In

this case, LISSMAC may, at its own discretion, make payment to the Supplier or the third party with discharging effect.

## **XIX. Place of performance and jurisdiction**

1. The place of performance shall be Bad Wurzach or the place of destination expressly specified by LISSMAC.
2. The place of jurisdiction for both parties, irrespective of the amount in dispute, is the lowest court of entry responsible for Bad Wurzach. This place of jurisdiction is not exclusive.

## **XX. Data protection and data storage**

Personal data that arise in connection with the contractual relationship are collected and stored for the purpose of data processing and in compliance with the applicable data protection regulations (Basic Data Protection Regulation).

## **XXI. Applicable law and effectiveness**

1. German law shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
2. Each provision of these Terms and Conditions of Purchase shall apply in its own right (§ 139 BGB).
3. The legal invalidity of any part of the above provisions shall not affect the validity of the other provisions. In place of provisions that have not become part of the contract, are invalid or missing, the statutory provisions under German law shall apply.

**Stand: 09/2021**