

**GENERAL CONDITIONS
FOR THE SUPPLY OF PRODUCTS AND SERVICES FOR
INTERNATIONAL COMMERCIAL TRANSACTIONS BETWEEN
BUSINESSES**

GENERAL

1. The scope of deliveries and/or services (hereinafter referred to as „Supplies“ shall be determined by the written declarations of both Parties. General terms of the Purchaser shall apply only if and when expressly accepted by LAP or the provider of services (hereinafter referred to as „LAP“) in writing.
2. LAP herewith reserves any industrial property rights and/or copyrights pertaining to its quotations, cost estimates, drawings and other documents (hereinafter referred to as Documents.). The Documents shall not be made accessible to third parties without LAP's prior consent and shall, upon request, be returned without undue delay to LAP if the contract is not awarded to LAP. Sentences 1 and 2 shall apply respectively to documents of the Purchaser; these may, however, be made accessible to third parties to whom LAP may rightfully transfer Supplies.
3. All our quotations are non-binding. The right to change Technical specifications for improvement reasons is reserved.
4. The Purchaser shall have the non-exclusive right to use LAP software, provided that it remains unchanged, is used within the agreed performance parameters, and on the agreed equipment. The Purchaser may make one back-up copy without express agreement.
5. Partial Supplies shall be allowed, unless they are unreasonable to accept for the Purchaser.

II. PRICES AND TERMS OF PAYMENT

1. Prices shall be ex works and exclude packaging; value added tax shall be added where applicable at the then applicable rate.
2. If LAP is also responsible for assembly or erection and unless otherwise agreed, the Purchaser shall pay the agreed remuneration and any incidental costs required, a. g. travel costs, costs for the transport of tools and equipment, and personal luggage as well as allowances.
3. Payments shall be made free LAP's dedicated paying office.
4. The Purchaser may set off only these claims, that are undisputed or against which no legal recourse is possible.

III. RETENTION OF TITLE

1. Items pertaining to the Supplies ("Retained Goods") shall remain the property of LAP until each and every claim LAP has against the Purchaser on account of the business connection has been fulfilled. If the combined value of the security interests of LAP exceeds the value of all secured claims by more than 20 % LAP shall release a corresponding part of the security interest if so requested by the Purchaser.
2. For the duration of the retention of title the Purchaser may not pledge the Retained Goods or use them as security and resale shall be possible only for resellers in the ordinary course of their business and only on condition that the reseller receives payment from its customer or makes the transfer of property to the customer dependent upon the customer fulfilling its obligation to effect payment.
3. The Purchaser shall inform LAP forthwith of any seizure or other act of intervention by third parties.
4. Where the Purchaser fails to fulfil its duties, including failure to make payments due LAP shall be entitled to cancel the contract and take back the Retained Goods in the case of continued failure following expiry of a reasonable time set by LAP; the statutory provisions that a time limit is not needed remain unaffected. The Purchaser shall be obliged to surrender the Retained Goods.

IV TIME FOR SUPPLIES; DELAY

1. Times set for Supplies can only be observed, if all Documents to be supplied by the Purchaser, necessary permits and releases -especially concerning plans - are received in time and if agreed terms of payment and other obligations of the Purchaser are fulfilled. Unless these conditions are fulfilled in time, time set shall be extended appropriately; this shall not apply where LAP is responsible for the delay.
2. If non-observance of the times set is due to force majeure such as mobilisation, war, rebellion or similar events, e. g. strike or lockout such time shall be extended accordingly.
3. Purchaser's claims for damages due to delayed Supplies as well as claims for damages in lieu of performance shall be excluded in all cases of delayed Supplies even upon expiry of a time set to LAP. This shall not apply in cases of mandatory liability based on intent, gross negligence, or due to bases on statute shall be limited to cases where LAP is responsible for the delay. The above provisions do not imply a change in the burden of proof to the detriment of the Purchaser.
4. At LAP's request the Purchaser shall declare within a reasonable period of time whether the Purchaser cancels the contract due to the delayed Supplies or insists on the Supplies to be carried out.

V. TRANSFER OF RISK

1. All deliveries are carried out according to Incoterms 2000.

2. Even where delivery has been agreed freight free, the risk shall pass to the Purchaser as follows
 - a) if the Supplies are shipped by carrier, at the time when the Supplies are shipped or nicked up by the carrier. Upon request of the Purchaser, LAP shall insure the Supplies against the usual risks of transport at the expense of the Purchaser
 - b) if the Supplies are shipped by LAP in connection with assembly or erection, at the day of taking over in Purchaser's own facilities.
 - c) The risk shall pass to the Purchaser if dispatch, shipping, the start or performance of assembly or erection, the taking over in Purchaser's facilities is delayed for reasons for which the Purchaser is responsible or if the Purchaser has otherwise failed to accept the Supplies.

VI. ASSEMBLY AND ERECTION

Unless otherwise agreed in writing, assembly/erection shall be subject to the following provisions:

1. The Purchaser shall provide at its own expense and in good time
 - a) all earth and construction work and other ancillary work outside the scope of LAP, including the necessary skilled and unskilled labour, construction materials and tools.
 - b) the equipment and materials necessary for assembly and commissioning such as platforms, lifting equipment and other devices as well as fuels and lubricants,
 - c) energy and water at the point of use, including connections, heating and lighting,
 - d) suitable dry and lockable rooms of sufficient size adjacent to the site for the storage of machine parts, apparatus, materials, tools, etc. and adequate working and recreation rooms for the erection personnel including sanitary facilities, as are appropriate in the specific circumstances. Furthermore, the Purchaser shall take all measures it would take for the protection of its own possessions to protect the possessions of LAP and of LAP's erection personnel at the site,
 - e) protective clothing and protective devices needed due to particular conditions on the specific site.
2. Before the erection work starts, the Purchaser shall make available without having been asked any information required concerning the location of concealed electric power, gas and water lines or of similar installations as well necessary structural data.
3. Prior to assembly or erection, the materials and equipment necessary work to start must be available on the site of assembly/erection and any preparatory work must have advanced to such a degree that assembly/erection can be started as agreed and carried out without interruption. Access roads and the assembly/erection site itself must be level and clear.
4. If assembly erection or commissioning is delayed to circumstances for which LAP is not responsible, the Purchaser shall bear the reasonable costs for idle items and any additional travelling of LAP's erection personnel.
5. The Purchaser shall attest to the hours worked by the erection personnel towards the LAP at weekly intervals and the Purchaser shall immediately confirm in writing if assembly, erection or commissioning has been completed.
6. If, after completion, LAP demands acceptance of the Supplies, the Purchaser shall comply therewith immediately after completion. In default thereof, acceptance is deemed to have taken place. Acceptance is also deemed to have been effected, if the Supplies are put to use, after completion of an agreed test phase if any.

VII. RECEIVING OF SUPPLIES

The Purchaser shall not refuse to receive Supplies due to minor defects.

VIII DEFECTS AS TO QUALITY / LIMITED WARRANTY

LAP shall be liable for defects as to quality as follows:

1. All parts or services, where a Defect becomes apparent within the limitation period shall, at the discretion of LAP be repaired, replaced or provided again free of charge, irrespective of the hours of operation elapsed, provided that the reason for the Defect had already existed at the time when the risk was transferred.
2. Claims based on Defects are subject to a limitation period of 12 months. This provision shall not apply where longer periods are prescribed by law, as well as in cases of injury of life, body or health, or where LAP intentionally or grossly negligently fails to fulfil its obligation or fraudulently conceals a Defect. The legal provisions regarding suspension of expiration, suspension and re-establishment of limitation periods remain unaffected.
3. The Purchaser shall notify Defects to LAP in writing and without undue delay.
4. In the case of notification of a Defect, the Purchaser may withhold payments to a reasonable extent taking into account the Defect occurred. The Purchaser however may withhold payments only if the subject-matter of the notification of the Defect occurred is justified beyond doubt. Unjustified notifications of Defect shall entitle LAP to have its expenses reimbursed by the Purchaser.
5. LAP shall first be given the opportunity to supplement its performance within a reasonable period of time.
6. If supplementary performance is unsuccessful, the Purchaser shall be entitled to cancel the contract or reduce the remuneration, irrespective of any claims for damages it may have according to Art. XI.
7. There shall be no claims based on Defect in cases of insignificant deviations from the agreed quality, of only minor impairment of usefulness, of natural wear and tear

8. or damage arising after the transfer of risk from faulty or negligent handling, excessive strain, unsuitable equipment, defective workmanship, inappropriate foundation soil or from particular external influences not assumed under the contract, or from non-reproducible software errors. Claims based on defects attributable to improper modifications or repair work carried out by the Purchaser or third parties and the consequences thereof shall be likewise excluded.
9. The Purchaser shall have no claim with respect to expenses incurred in the course of supplementary performance, including costs of travel and transport, labour, and material, to the extent that expenses are increased because the subject-matter of the Supplies was subsequently brought to another location than the Purchaser's branch office, unless doing so complies with the intended use of the Supplies.
10. The Purchaser's right of recourse against LAP limited to cases where the Purchaser has not concluded an agreement with its customers exceeding the scope of the statutory provisions governing claims based on Defects. Moreover, No. 8 above shall apply respectively to the scope of the right of recourse the Purchaser has against LAP.
11. Furthermore, the provisions of Art. XI (Other Claims for Damages) shall apply in respect of claims of damages. Any other claims of the Purchaser against LAP or its agents or any such claims exceeding the claims provided for in this Art. VIII, based on a Defect, shall be excluded.

IX. INDUSTRIAL PROPERTY RIGHTS AND COPYRIGHT DEFECTS IN TITLE

1. Unless otherwise agreed, LAP shall provide the Supplies free from third parties' industrial property rights and copyrights (hereinafter referred to as "IPR") with respect to the country of the infringement of an IPR with respect to the Supplies made by LAP and then used in conformity with the contract. LAP shall be liable to the Purchaser within the time period stipulated in Art. VIII No.2 as follows:
 - a) LAP shall choose whether to acquire, at its own expense, the right to use the IPR with respect to the Supplies concerned or whether to modify the Supplies such that they no longer infringe the IPR or replace them. If this would be unreasonable to demand from LAP, the Purchaser may cancel the contract or reduce the remuneration pursuant to the applicable statutory provisions.
 - b) LAP's liability to pay damages shall be governed by Art. XI.
 - c) The above obligations of LAP shall only apply if the Purchaser (i) immediately notifies LAP of any such claim asserted by the third party in writing, (ii) does not concede the existence of an infringement and (iii) leaves any protective measures and settlement negotiations to the discretion of LAP. If the Purchaser stops using the Supplies in order to reduce the damage or for other good reason, it shall be obliged to point out to the third party that no acknowledgement of the alleged infringement may be inferred from the fact that the use has been discontinued.
2. Claims of the Purchaser shall be excluded, if it is itself responsible for the infringement of an IPR.
3. Claims of the Purchaser shall also be excluded if the infringement of the IPR is caused by specifications made by the Purchaser, to a type of use not foreseeable by LAP or to the Supplies being modified by the Purchaser or being used together with products not provided by LAP.
4. In addition, with respect to claims by the Purchaser pursuant to No. 1a) above, Art. VIII Nos. 4, 5, and 9 shall apply respectively in the event of an infringement of an IPR.
5. Where other defects in title occur, Art. VIII shall apply respectively.
6. Any other claims of the Purchaser against LAP or its agents or any such claims exceeding the claims provided for in this Art. IX, based on a defect in title, shall be excluded.

X. IMPOSSIBILITY OF PERFORMANCE; ADAPTATION OF CONTRACT

1. To the extent that Supplies are impossible to be carried out, the Purchaser shall be entitled to claim damages, unless LAP is not responsible for the impossibility. The Purchaser's claim for damages shall, however, be limited to an amount of 10% of the value of the part of the Supplies which, owing to the impossibility, cannot be put to the intended use. This limitation shall not apply in the case of mandatory liability based on intent, gross negligence or injury of life, body or health; this does not imply a change in the burden of proof to the detriment of the Purchaser. The right of the Purchaser to cancel the contract shall remain unaffected.
2. Where unforeseeable events within the meaning of Art. IV No 2 substantially change the economic importance or the contents of the Supplies or considerably affect the LAP's business, the contract shall be adapted taking into account the principles of reasonableness and good faith. Where doing so is economically unreasonable, LAP shall have the right to cancel the contract. If LAP intends to exercise its right to cancel the contract, it shall notify the Purchaser thereof without undue delay after having realised the repercussions of the event: this shall also apply even where an extension of the delivery period had previously been agreed with the Purchaser.

XI. OTHER CLAIMS FOR DAMAGES

1. Any claims for damages and reimbursement of expenses the Purchaser may have (hereafter referred to as "Claims for Damages") based on whatever legal reason, including infringement of duties arising in connection with the contract or tort, shall be excluded.

2. The above shall not apply in the case of mandatory liability, in the case of intent, gross negligence, injury of life, body or health, or breach of a condition, which goes to the root of the contract. However, Claims for Damages arising from a breach of a condition, which goes to the root of the contract, shall be limited to the foreseeable damage which is intrinsic to the contract, unless caused by intent or gross negligence or based on liability for injury of life, body or health. The above provision does not imply a change in the burden of proof to the detriment of the Purchaser.
3. To the extent that the Purchaser has a valid Claim for Damages according to this Art. XI, it shall be time-barred upon expiration of the limitation period applicable to Defects pursuant to Art. VIII No.2. In the case of claims for damages under the German Product Liability Act, the statutory provisions governing limitation periods shall apply.

XII. VENUE AND APPLICABLE LAW

1. If the Purchaser is a business man/woman or commercial entity, sole venue for all disputes arising directly or indirectly out of the contract shall be LAP's place of business. However, LAP may also bring an action at the Purchaser's place of business.
2. Legal relations existing in connection with this contract shall be governed by German substantive law, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

XIII. SEVERABILITY CLAUSE

The legal invalidity of one or more provisions of this contract shall in no way affect the validity of the remaining provisions. This shall not apply, if it would be unreasonable for one of the parties to continue the contract.

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