

General Conditions of Sale and Delivery – LSEZ “Lauma Fabrics” SIA

I. Scope

1. These General Conditions of Sale and Delivery (GCS) apply to all our deliveries and services. The GCS only apply to companies (section 14 of BGB), legal public entities or public separate estates (hereinafter referred to as the “Buyer”).
2. The GCS apply exclusively. Conflicting or additional terms and conditions set forth by the Buyer, or those deviating from our GCS, will only be recognized if we expressly agree to their validity in writing. In particular, this also applies if the Buyer refers to his or her own terms and conditions when placing the order or when confirming the request, or if we are aware of the Buyer’s terms and conditions and provide the delivery or service without reservations.
3. The GCS in their respective actual version are also considered a framework agreement for future contracts with the same Buyer regarding the sale and/or delivery of movable goods, and we will not be required to refer back to them in each individual case.
4. Any relevant declarations and notifications which the Buyer must submit to us after the signing of the contract (i.e. time limits, warnings, cancellation notices) must be submitted in writing in order to be considered valid.
5. Employees, representatives and authorized agents do not have the authority to deviate from the content of these GCS; in this respect, any deviation requires written confirmation by our management.
6. Our sales representatives and other intermediaries are application agents. They are not authorized to conclude contracts or accept cash payments.

II. Offers, Deviations in Quality or Number, Right to Withdraw

1. All of our offers are non-binding and subject to change. This also applies to all information in price lists, prospectuses, etc..
2. The Buyer will be held to his or her order for 15 working days. Our acceptance can be made either in writing (e.g. through a confirmation of contract) or by the delivery of the goods and/or provision of the service.
3. Samples are typical prototypes, meant to illustrate how the goods will turn out. They do not constitute a guarantee to the Buyer that the goods delivered will conform to the sample in every detail.
4. Similarly, we expressly exclude customary deviations in quality, color, weight, number, width and technical values. Technical quantity deviations up to 10% can be invoiced to the customer as order quantity.
5. Since the scope of our products is broad and quite varied, we can only give general guidelines in our processing instructions and recommendations. It is the Buyer’s responsibility to verify the material’s suitability for the intended purpose, as well as the practicability of the chosen workmanship and the amounts of material needed.
6. If our service is dependent on delivery by our supplier, and the delivery is either incorrect or is not performed in a timely manner, we are entitled to withdraw from the contract without incurring damage claims unless we are responsible for the delivery error.
7. Prices and Payment Conditions

1. The price quoted depends on the costs of material, manufacturing overhead, wages and refinement costs applicable at the time the offer is submitted or when the order is confirmed. If more than two months elapse between the signing of the contract and delivery, we reserve the right to adjust the price accordingly, in proportion with the percent-based change in prorated costs.
2. So long as no agreements are made to the contrary, the current prices from the factory or distributing warehouse at the time of the contract’s signing are applicable, including customary packaging costs and excluding tax. Shipping costs, along with any duties, fees, taxes or other public charges, will be borne by the Buyer.
3. So long as no other agreements are made, the sale price is payable after the invoice has been issued and after delivery and/or provision of services, as follows: - within 10 days, with a 2% discount, - in full after 30 days.
The respective receipt of the payment on our accounts shall be deemed decisive for the observation of the deadlines.
4. The submission of notes requires our permission; this takes place on account of payment. Bank discounts, note charges and note taxes are to be borne by the Buyer and are payable immediately.
5. In the case of default on the part of the Buyer, we are entitled to demand the legal default interest. We reserve the right to claim any further damages from default as well as any other rights.

6. If, after the signing of the contract under the observance of customary bank precautions, the Buyer’s assets demonstrate a significant decline that jeopardizes the payment of the purchase price; or if the Buyer is in default in accordance with point 5, we may deem all still outstanding invoices due and payable immediately and demand matching payment for delivery of the goods for any deliveries remaining in the business relationship under discontinuance of the term of payment. If the Buyer fails to fulfill this duty to match payment of the purchase price within 5 days of delivery, we may set a further limit of 10 days, beginning on the date of writing, and simultaneously declare that we will refuse to fulfill the contract after the time limit has elapsed. If the Buyer is not prepared to provide matching payment for delivery of the goods within this time limit, then we may either request damages for non-fulfillment or cancel the contract. For contracts regarding the production of non-substitutable goods (custom manufacturing), we may declare the cancellation immediately.
7. The Buyer may not offset claims that are not undisputed or legally established, no matter what their legal basis. The Buyer is also not entitled to claim any right of retention arising from these claims. In the case of guarantee claims, No. VI applies.

III. Delivery Time Limit, Partial Delivery, acceptance duty

1. The time limit for delivery shall be agreed upon individually, or shall be given by us upon acceptance of the order.
2. The occurrence of our default is determined by legal regulations. In every case, however, a warning from the Buyer is required. If we are in default for a service, the Buyer must give us written notice of an appropriate grace period. If we do not fulfill our delivery obligations within this grace period, the Buyer is entitled to cancel the contract or to demand compensation for damages in accordance with No. VII.
3. If our delivery is dependent upon delivery to us by our supplier, we are not in default so long as our delay is caused by a delay on the part of the supplier, unless we are responsible for the cause of such delivery delay.
4. An agreed-upon time limit has been met if an operation-ready shipment has been shipped or picked up within the agreed-upon limit. If the Buyer is responsible for the delayed delivery, the time limit is considered to have been met if we report readiness for shipment within the agreed-upon limit.
5. Conditions occurring beyond our control shall entitle us to an appropriate extension of the delivery and service time limit, which we will report to the Buyer without delay. If the service cannot be performed within this new time limit, we are entitled to full or partial withdrawal from the contract.
6. Partial deliveries are permissible unless this is unreasonable for the Buyer with regard to the usage expressly agreed upon in accordance with the contract. Separate invoices shall be issued for these partial deliveries and shall be paid in accordance with No. III. of these conditions.
7. Deliveries on demand that do not have specific set times to be dispatched must be ordered by the Buyer at regular intervals; if no other arrangements are made, they shall be ordered at the latest 6 months after the signing of the contract. The Buyer must notify us of the order at least 6 weeks before dispatch.
8. Six months after placing of orders the goods will be shipped and invoiced.

IV. Transfer of Risk and Acceptance

1. Risk is transferred to the Buyer at the latest at the time of shipping. This also applies to partial deliveries and post-agreed deliveries. If shipping or acceptance is delayed as a result of circumstances beyond our control, risk is transferred to the Buyer beginning on the first day of readiness to ship. In such cases we can store the goods on site or with a third party at the Buyer’s expense.
2. Delivered goods, even if defective, are to be accepted by the Buyer regardless of the Buyer’s warranty rights. Goods may only be returned with our permission, via a shipping method we have determined.
3. The choice of appropriate shipping method and route is left to our discretion unless another agreement is made. If the Buyer so wishes, shipping may be insured for breakage, damage in transit, fire damage and loss at the Buyer’s expense.

V. Warranty

1. The Buyer’s rights regarding defects of quality or title (including misdelivery and short delivery as well as improper assembly or insufficient assembly instructions) (“defects”) are subject to the legal requirements insofar as nothing is stated to the contrary below. Special legal requirements for the final delivery to a consumer remain unaffected in any case (supplier regress as per sections 478, 479 BGB).
2. Deviations from samples and customary or insignificant deviations from the order in accordance with Nos. II.3 and 4 do not entitle the Buyer to any warranty or replacement claims.
3. For foreign products, our liability is limited to the transfer of warranty claims that we have against the deliverer of the foreign product, insofar as these warranty claims correspond at a minimum to the warranty-claim conditions set forth in this contract. If the third party does not satisfy the justified claims of the Buyer, we will be liable to the Buyer in accordance with these GCS.
4. The object of delivery is to be inspected immediately after acceptance insofar as this is possible given the normal order of business. Obvious and noticeable defects are to be reported in writing within 7 working days after acceptance. Any other defects are to be reported in writing immediately upon discovery.
5. For established defects reported in a timely manner, we can either repair the defective goods at no cost or replace them (“rectification of defects”). The Buyer must grant an appropriate time period for the fulfilling of these warranty obligations insofar as this is not legally superfluous. Our right to refuse the chosen rectification under the legal requirements remains unaffected. Faulty goods that are replaced become our property. These GCS apply in the same way to objects that are delivered as rectification or as replacement.
6. With regard to this same defect, the Buyer must grant us at least two attempts to rectify the defect or provide a replacement delivery. If the rectification fails as well, or if a time limit set by the Buyer for rectification elapses without success and/or such a time limit is legally unnecessary, the Buyer has the express right to demand either a reduction of the purchase price or a cancellation of the portion of the purchase contract affected by the defective delivery, unless such cancellation cannot be restricted to this portion of the contract or is unreasonable for the Buyer. In the case of a negligible defect, there is no right of cancellation.

7. We may refuse to rectify the defect if the Buyer has not provided in advance at least that portion of the payment corresponding to the value of the goods delivered or the service provided, with allowance made for the significance of the defect.

8. For warranty claims regarding deliveries of movable goods, a one-year statute of limitations applies, differing from section 438 para. 1 No. 3 of the German Civil Code “BGB”. This begins with the Buyer’s acceptance of the goods or, if the Buyer is in default regarding acceptance, from the point in time when the Buyer is informed of the readiness to ship. The point of shipping readiness also applies if we are storing the goods for the Buyer at the Buyer’s request. In addition, the legal regulations for the statute of limitations apply, particularly those of the Product Liability Law.

9. The Buyer’s claims for damage compensation and/or replacement of wasted expenses are only valid as per No. VI; otherwise they are excluded.

VI. Other Liability

1. Insofar as nothing different arises from these GCS, including the conditions below, we assume liability in the case of a violation of contractual and non-contractual obligations in accordance with the applicable legal requirements.

2. We shall be liable for damage compensation – no matter on what legal grounds – in the case of intent and gross negligence.

For simple negligence, we are liable only

- a) for damages arising out of death, injury to body or health.

- b) for damages arising from the violation of a significant contractual obligation (an obligation whose fulfillment makes the proper implementation of the contract possible in the first place, and in the fulfillment of which the contractual partner trusts and has a right to trust); in this case, however, our liability is limited to the replacement of foreseeable, typically occurring damages.

3. Liability limitations arising from point 2 do not apply insofar as we have fraudulently hidden a defect or have guaranteed the quality of the goods. The same applies to claims by the Buyer made in accordance with the Product Liability Law.

4. In the case of a breach of obligation that does not consist of a defect, the Buyer may only withdraw from the contract or terminate it if we are responsible for the breach of obligation. The Buyer’s free termination right (in particular as per sections 651, 649 of the BGB) is excluded. Elsewhere, the legal requirements and consequences apply.

5. In the case of our default resulting from simple negligence or coincidence, the amount of the damages from delay is limited to a maximum of 5% of the purchase price for the defaulted delivery or service.

VII. Reservation of Title

1. The delivered goods shall remain our property until all current and future payments arising from the specific contract, as well as from the ongoing business relationship, have been made by the Buyer.

2. The Buyer is not entitled to pledge or to assign goods by way of security before payment in full of the secured receivables.

3. In the case of behavior on the part of the Buyer that is contrary to contract, particularly nonpayment of the purchase price due, we are entitled to withdraw from the contract in accordance with the legal provisions and/or to demand the return of the goods on the basis of reservation of title. A demand to return the goods does not automatically constitute a declaration of withdrawal; rather, we are entitled to simply demand the return of the goods and reserve the right to withdraw. If the Buyer does not pay the purchase price due, we may only assert these rights if we have previously set an appropriate time limit for the Buyer without success, or if such a time limit is not required in accordance with legal regulations.

4. In the due course of business, the Buyer has the right to sell and/or further process the goods that are subject to reservation of title. In this case, the following supplementary conditions apply:

- a) The reservation of title extends to the full value of the products created by the processing, combining or joining of our goods, in which we are considered the manufacturer. If in the processing, combining or joining with a third party’s goods, the proprietary rights of the third party are preserved, we shall acquire co-ownership in proportion to the invoice value of the processed, combined or joined goods. Elsewhere, the same conditions apply to the resulting product as to the goods delivered under reservation of title.

- b) As security, receivables owed to third parties arising from further sale of the goods or sale of the resulting product are hereby assigned to us in full and/or in the proportional amount of any co-ownership, in accordance with the above paragraph. We accept the assignment. The Buyer’s obligations named in No. VIII.2 apply even in consideration of the assigned receivables.

- c) In addition to us, the Buyer remains authorized to collect the receivables. We hereby obligate ourselves not to collect the receivables so long as the Buyer fulfills his or her payment obligations to us, is not in default, is not subject to insolvency proceedings and there is no other deficiency in the Buyer’s capabilities. However, if this is the case, we may demand that the buyer inform us of the assigned receivables and their debtors, provide all information necessary for collection, deliver the corresponding documentation and inform the debtors (third parties) of the assignment.

- d) If the realizable value of the securities exceeds our receivables by more than 10%, we shall release securities of our choice upon request of the Buyer.

5. We must be informed immediately of any attachment or other jeopardizing of the reserved property or the assigned receivables. The Buyer must provide all documentation necessary for an intervention. Costs of an intervention shall be borne by the Buyer in every case.

6. If we so desire, the Buyer is obligated to insure the reserved goods at his or her own cost against fire, water damage and theft.

VIII. Our Damage Claims

1. Our right to demand damages complies with legal requirements insofar as nothing to the contrary is determined by this contract. If we demand damages for non-fulfillment and the purchase object has not yet been delivered, or if we reclaim the goods in accordance with our legal rights, then we are entitled to a flat fee of 15% of the purchase price in damages, even without providing any special evidence, so long as the Buyer cannot prove that there was no damage, or that the damage was significantly less than the flat fee. On the other hand, if we prove that the damage was higher than the flat fee, we may also demand compensation for the further damage.

2. If we reclaim the purchase object because of non-fulfillment in conjunction with damage claims, under the terms of the agreed-upon reservation of title, we are also entitled to a flat fee of 15% of the market value of the reclaimed goods in addition to the damages agreed upon in paragraph 1 as compensation for the outlay involved in reclaiming and recycling the goods, so long as the Buyer cannot prove that no such damage has occurred or that the damage is significantly less than the flat fee.

IX. Export Business

1. The customary clauses are to be interpreted according to the relevant Incoterms of the ICC.
2. If we have agreed to bear the customs and import duties for the country of destination, any increase in effect for such deliveries between the signing of the contract and the delivery of the goods shall be borne by the Buyer. All other fees, taxes and costs associated with the purchase contract shall be borne by the Buyer as well.
3. If payment for as-yet undelivered orders has been agreed upon in non-German currency (foreign currency), then later changes in the rate of exchange from the agreed-upon foreign currency to euros shall be either credited to or borne by the Buyer.
4. If exchange losses take place in the conversion or transferring of amounts which the Buyer has deposited or placed in escrow at a bank or in an official offset account in the local currency, then the Buyer is obligated to make an additional contribution in the amount of the countervalue of the agreed-upon currency.
5. The payment is payable free of charge on our bank accounts.
6. We are entitled to demand an irrevocable letter of credit from the Buyer before delivery of the goods.

X. General, Property Rights

1. A written contract or our written confirmation is decisive for the contents of declarations before or at the signing of the contract or its implementation or for subsidiary agreements.
2. The place of performance is our place of business.
3. The sole court of jurisdiction for all disputes arising from this contract is the court responsible for our place of business. However, we are also entitled to bring action against the supplier at the court responsible for the supplier’s place of business.
4. The Buyer shall inform us in real time about possible changes to the legal form, his business address and other essential changes in his circumstances, which are of importance for the business relationship, such as in particular the change to the value added tax identification number.
5. The currency of the contracts signed is given in euros unless another currency has expressly been agreed upon.
6. The law of the Federal Republic of Germany applies to the exclusion of the Uniform Law on the International Sale of Goods.
7. For items manufactured in accordance with the Buyer’s specifications or given a special marking at the Buyer’s request, the Buyer assumes full responsibility and liability to ensure that no third-party property rights have been violated. The Buyer hereby releases us from any claims by third parties.