

# General Conditions of the Lithec GmbH Contract

## Conditions of Purchase

### § 1 General dispositions

1.1. The only valid conditions of purchase are our own. We do not recognize conditions set by the purchaser which are different or opposing our purchase conditions -exception made only for purchase conditions which have gained our written approval-. Our purchase conditions are valid also in cases in which in the knowledge that conditions of the purchaser though different or opposing ours have been accepted without reserve and supplies have been accepted from the supplier.

1.2. Our purchase conditions are only valid for entrepreneurs in accordance to the German Civil Code of Law –BGB- Article 14.

1.3. In cases in which our commercial relationship with the purchaser is of a lasting kind our purchase conditions will be in act also on any future operations with that supplier.

### § 2 Offer, documentation regarding the offer and tools

2.1. Suppliers must accept an order within fourteen (14) days.

2.2. We maintain property and authorial rights on pictures, drawings, calculations and other documentation, which cannot be accessed by third parties without our written and specific authorization and which must be used exclusively for production in accordance to our order and must be given back to us once the order has been fulfilled. They must be kept by the supplier for company eyes only.

2.3. The tools and other means of production which will be at the supplier's or that by him will be purchased or made during the validity of the contract or specifically for the production of parts of the object of the supply -and by us completely paid for- will become our property once payment has taken place. In relation to property transfer it is decided that the supplier keeps the property of the means of production in appointment to us.

Such means of production must not be used in the processes linked to productions regarding contracts of supply with other companies unless our specific written accordance to this has been given.

2.4. Tools and other means of production present at the supplier's seat or purchased or made during the validity of the contract and specifically necessary in the production of parts of the object of the supply but by us only in part paid for will undergo dispositions contained in article § 2.3. On these we will acquire property in proportional measure.

### § 3 Prices and conditions of payment

3.1. The price given in the order is legally binding. If there is no other written agreement, price is intended ex destination factory and comprehensive of packing. We will not assume the costs of any eventual insurance stipulated by the supplier or by the transporting company.

3.2. Price includes value added tax.

3.3. Unless otherwise specifically agreed upon, we shall pay the purchase price within 14 days of delivery of the supply and of the invoice with a reduction of 2% or within 30 days of receiving the supply and the invoice without the application of any reduction.

3.4. We are allegeable to compensation rights and retentions foreseen by the Law.

### § 4 Terms of Delivery

4.1. The terms of delivery stated in the order are legally binding.

4.2. The supplier must inform us immediately in writing if conditions come into place or are recognized as present that will have effect on the time of delivery agreed upon and that therefore cannot be respected.

4.3. If delivery takes place later than expected we will be able to sue the supplier for this in accordance with what is stated by Law.

4.4. Order bills must immediately be forwarded before the time of delivery.

The supplier must take care of any damages we will undergo if the order bills, covering letters and the other consignment documents are not forwarded in a complete or accurate way.

4.5. Two copies of invoices must be forwarded obviously marked accordingly as Original and Copy.

4.6. We have the right to give the packing back to the supplier.

#### **§ 5 Guarantee against manufacturing defects**

Our rights in the case we buy something which is subject to manufacturing defects are stated by Law. The same is true in relation to our rights in the case we should sue the supplier for manufacturing defects.

#### **§ 6 Place of Jurisdiction, seat of legal actions and applicable Law**

6.1. The only Place of Jurisdiction is Miesbach.

6.2. Unless otherwise stated in the order, the place for delivery is our company destination factory. The seat for payment is Miesbach.

6.3. This contract is subject to German Federal Law and to it the International Convention regarding the sale of Goods –CISG- is not applicable.

State: May 29, 2019

# Lithec GmbH Sales and Delivery Conditions

## § 1 General dispositions

1.1. The only valid conditions of purchase are those we set in the contract. We do not recognize conditions set by the purchaser which are different or opposing our purchase conditions exception made only for purchase conditions which have gained our written approval. Our purchase conditions are valid also in cases in which in the knowledge that conditions of the purchaser though different or opposing ours have been accepted without reserve and supplies have been accepted from the supplier.

1.2. Our purchase conditions are only valid for entrepreneurs in accordance to the German Civil Code of Law –BGB- Article 14.

1.3. In cases in which our commercial relationship with the supplier is of a lasting kind our purchase conditions will be in act also on any future operations with that supplier.

## § 2 Offer, documentation on the offer, writing of the contract

2.1. Our offers are not legally binding. By presenting an offer based on descriptions of the actions we require, we offer no guarantee regarding correctness and completeness of planning.

2.2. When an order is not classifiable as an offer in accordance to what stated in the article § 145 of the BGB, we will be able to accept it within four -4- weeks. The contract will be applied only if we give written approval and as stated in that document or with delivery.

2.3. We claim the right to make changes without giving notice both in the construction and in the form of the goods object of the contract, following technical progress. Also, this is true for very small variations or small technical or commercial changes in weight, dimensions or quality of the object.

2.4. We claim property and authorial rights on pictures, drawings, calculations and other documentation. This is also true for the written documentation marked out as 'for company eyes only'. Before this documentation is shown to third parties it is necessary for us to give our written approval.

2.5. We claim the right to place credit insurance on the commercial operation and to give the insurance company notice of the name and address of purchasers as necessary. The same is true for factoring and where necessary for the intervention of companies dealing with credit recovery.

2.6. To render these operations possible the purchasers data will be classified in electronic format.

## § 3 Prices and payment conditions

3.1. Where not specifically stated in writing in the order approval, our prices are to be considered ex factory and not inclusive of packing and insurance, as these costs are separately added on to every operation.

3.2. Our prices do not include added value tax as this is also added on separately on the invoice according to the current value on the day the invoice is filled in.

3.3. We claim the right to rise our prices in accordance to rises in production not out of our responsibility and that come into effect after the contract is set -in particular as a consequence of salary agreements, variation in the price of raw goods of which we will inform the supplier if it is required of us.

3.4. Unless not subject to particular specific agreements, payment must be immediately given directly and with no discounts. The detraction of discounts is subject to specific written agreements. Our staff is not authorized to receive payments.

3.5. If a purchaser is late in payment or where there are concrete elements indicating the possibility that payment will not be offered or we understand by other means that after the signing of the contract our right to payment is subject to the risk that purchasers will not be able to pay. In these cases we will be able to suspend further execution of given tasks and we will demand immediate payment of all credits –even as yet not due- and of totals subject to partial payment or the giving of a guarantee covering the appropriate terms.. If the purchaser does not respect our request of anticipated payment we will have the right to recede from the contract and of demanding that the purchaser take care of the costs up to that moment including the lack of profit.

3.6. Only the rights stated by Law are recognized to the purchaser, in particular the right to obtain damage insurance, cost amortement or recede from the contract.

3.7. The purchaser has the right to claim compensation right or retention only if his request is not contested or has been recognized by us as valid, declared valid or become valid in its own right.

3.8. In the case constructional defects are found the purchaser has the right to execute payment in conformity to the proportional measure of the defects found.

#### **§ 4 Terms for delivery**

4.1. The terms for delivery start with our forwarding a letter of confirmation. However, this does not happen before -a- we have obtained all the necessary documentation, the authorizations and the permits that the purchaser must furnish us with -b- all the questions of a technical character have been faced and -c- we have received the agreed upon part payment.

4.2. Events linked to work force remonstrations, in particular strikes or abstention from activities, or the coming into being of conditions which have nothing to do with our will such as 'force majeure' events or the impossibility to execute delivery, determine a significant lengthening of the time of delivery.

The same is true if the above mentioned circumstances come into being at our supplier's sites. If the above mentioned circumstances come into being rendering delivery partially or completely impossible for reasons outside our will and not tied to it, we will be free from responding to the duties imposed by contract even if the same happen to come into being when there is already a lateness in delivery.

4.3. The time of delivery is considered respected if at that time the object of the supply has left our factory or our will to forward the goods has been communicated to the purchaser. We are authorized to execute partial deliveries.

4.4. If the purchaser is late in reclaiming the goods or does not respect agreed upon means of collaboration, we will be authorized to claim damage including direct damage as well as any extra costs we may have had. Further rights will be claimed.

#### **§ 5 Risk management and shipping**

5.1. Where not differently stated in the order confirmation, deliveries are intended ex factory.

5.2. Where not differently stated, we will insure the goods for the purchaser when shipping them.

5.3. The risk of damage or deterioration of the sold goods passes on to the purchaser once the goods leave our factory or warehouse. If goods are shipped late for reasons related to the purchaser, the risks are passed on to the purchaser on the date he was given communication the goods were ready for shipping. If the purchaser is late in accepting the goods or does not do so risk becomes the purchaser's responsibility as soon as he becomes late in doing his agreed part in the transition and he as such becomes a debtor.

5.4. If the purchaser does not accept the object of the contract within the agreed terms, we are authorized to state a length of time in which he must accept the goods after which we will be able to dispose of them differently and execute the delivery with a significant difference in the terms of delivery.

5.5. Both packing used during the shipping of the goods and any other packing materials used will not be collected by us but must be taken care of by the purchaser who will have to pay for the process as foreseen by laws on the disposal of this sort of items. The rule is only broken for pallets.

#### **§ 6 Damage and reporting of the same**

6.1. Any claim the purchaser has on damage to the goods object of the contract imply that he has taken care of all the aspects for which he is responsible like checking the goods for damage and reporting the same as stated in § 377 of the German Civil Code -HGB. If damage is evident we must receive report of it within two weeks -2-. If we do not receive the above mentioned report we will in fact consider the goods to be faultless. It will be necessary, as such, that purchasers envoy written reports on this -it is also possible to post them by fax.

6.2. In accordance to what is stated on the matter of damage within article § 438 comma 1-3of the BGB dealing with the purchaser's right to refuse damaged goods, the term for this has been fixed at one -1- year. After this it will not be possible for the purchaser to complain.

6.3. Goods object to this sort of report must be sent back to us so that the packing can be checked to see if the original packing is present or not. If the report arrives on time, is accurate and states that damage is present for other reasons, we will refund the purchase, deliver a different set of goods, where no damage is present

We have the right to refuse a subsequent delivery according to the laws en force on the matter. When the purchaser cannot take care of his part of the contract due to the fact he does no longer consider it feasible, due to bankruptcy or other reasons, the purchaser then has the right to demand a reduction or even not pay, as described in the following paragraph. -§ 323 par. 2, § 440 BGB, § 441 par. 1 BGB- unless otherwise stated. If the purchaser no longer intends to keep the contract standing, he will have to pay for deterioration and damage occurred as well as report on costs related to payment in diligentia quam in suis, but also in every other circumstance. If one intends to claim damage and refunding of the same from the purchaser, one must follow indications contained in article § 7. When, on the other hand, any damage is deliberately hidden or no mention is made to a known damage to the goods, only what contained in § 444 BGB will be considered -declaration of the seller that at the time of sale the goods were in a specific condition and that for the best of his knowledge they have stayed that way also in his absence-once risk was taken on by the. Exception made for § 478 BGB.

6.4. As well as what is stated by law, we also have the right to refuse further intercourses if the purchaser has not returned the damaged goods -or a sample of the same- after we have asked for this to happen. In this case the purchaser retains no right to compensation or

refunding.

6.5. No claim can be made if the difference in the state the goods are in is so small that one cannot consider it to be properly damaged. No claim can also be made when the goods become damaged because they have been employed in a way that is not correct, they are used or the goods have been handled with lack of care and responsibility. This is also true when the goods have been modified or repaired in ways not suggested by us -or simply not properly- without our authorization by the purchaser or third parties.

6.6. As for products of third parties or not directly made by us, our guarantee of responsibility ends and responsibility is shifted on to our suppliers if we are not directly responsible. Any other claims will be dealt with in accordance to what stated in § 6, in view of which we are responsible of the goods when they are under our care.

## **§ 7 Damage Refunding Responsibility and expense refunding**

7.1. When any agreement in the contract, decided upon before the contract became valid or extra contract is not respected –as when a delivery is not executed as agreed upon, an action is not allowed for and it is the responsibility of the producer- we will provide expense refunding and damage refunding –when other legal or contractual responsibilities are not declared elsewhere- only in case of malice, serious lack of care or lack of respect for a fundamental contractual agreement due to a slight evasion from the responsibility imposed by the agreements –a violation which goes against the goal of the agreements included in the contract-. However, our responsibility –except in the case of malice- is linked only to damage foreseen when the contract was written down. The purchaser will not be able to claim refunding for costs which are not essential.

7.2. Damage connected to lateness in delivery will be considered our responsibility and as such refunded only up to 5% of the agreed upon price of sale.

7.3. Otherwise from fundamental errors, we reserve the right to refuse refunding connected to very slight lacks in respecting the contractual agreement which in any case will be within the total purchase price. Exception made for what mentioned in article §7.2.

7.4. Exclusions and limitations of responsibility as stated in 7.4. §§ 7.1-7.3 will not be applied in the case in which a quality of the goods is guaranteed as stated article § 444 BGB when damage is intentionally not mentioned or there is a risk to life, physical well being and integrity or in connection to damage linked to the product and connected to compulsory responsibility.

7.5. Any claim for damage we will receive which differ from claims linked to damage of the goods themselves -cfr. § 6.2- independently from their juridical motivation - except from what stated in § 479 BGB- shall not be considered valid after one year from the delivery of the goods, whether there is knowledge or no knowledge of the lack of care which caused the damage or of the identity of the person obliged to pay for damage. What is stated in this paragraph is not valid for responsibilities tied to malice where what is included in article § 7.4 will be followed as will all other laws on the matter. Shorter times of prescription provided by law prevail.

7.6 Our obligation to refund damage and expenses is also applicable as stated here to our staff and internal and external collaborators.

## **§ 8 Claim on Property**

8.1. We claim the right to retain property of the objects we sell till we receive complete payment for the same. Purchasers must make good use of the goods and in particular must insure them in such a way that their cost is properly covered in case of fire, theft or damage from water. When necessary, the purchaser must also execute and pay for revision and repair of the goods in such a way that they are looked after properly.

8.2. If the goods are placed under legal custody, purchasers must inform us immediately in writing so we can claim the goods as stated in article § 771 ZPO of the Civil Code. When these third parties cannot reimburse legal end extrajudicial procedures as describe in article § 771 ZPO, we will consider the purchaser responsible for the loss we face.

8.3. Purchasers have the right to sell the goods on to others as is commercially normal, but they must give up all their credits to us for a total of the sum written in the invoice –IVA included- of our credit, which he will derive from his selling the goods to his clients or third parties, independently from the fact that the goods may have been sold in their original form or may have been transformed. The purchaser can also choose to cash the income after he has sold the goods. This does not influence our faculty of providing autonomously for the credit collection order. Nevertheless, we engage in not collecting credit if the purchaser takes care of his part of the agreement by paying what agreed upon without lateness and in all cases where there is no certified doubt that the purchaser will continue to do so and payment is not late o suspended. When the circumstances mentioned do occur we may ask for a list of the debtors and of the amounts due and also demand that the purchaser give us all the information relevant to our credit collection as well as asking him to inform his debtors of the current state of affairs he is in.

## **§ 9 Place of Jurisdiction, seat of legal actions and applicable Law**

9.1. The seat for deliveries and payments is our company seat in Miesbach.

9.2. The only Place of Jurisdiction is Miesbach.

9.2. Unless otherwise stated in the order, the place for delivery is our company destination factory. The seat for payment is Miesbach.

9.3. This contract is subject to German Federal Law and to it the International Convention regarding the sale of Goods –CISG- is not applicable.

**§10 Priority of the German version**

If in doubt, the German version is always preferable to all other versions.

State: May 29, 2019