

General Terms and Conditions of Business, Sale and Delivery
of the firm of A.H. Lehmann Blechwarenfabrik GmbH

I. General

1. Our deliveries shall exclusively be made on the basis of the present General Terms and Conditions of Business, Sale and Delivery.

These terms and conditions shall also apply for all future transactions between Contracting Parties.

Amendments and supplements shall be made by the management. Verbal agreements or declarations by other persons not authorised to do so by the management shall only be effective if they are confirmed in writing by Supplier's management.

All and any verbal side-agreements made shall be ineffective.

Orderer's terms and conditions of business shall only apply to the extent to which we have expressly approved thereof in writing.

2. Quotations shall be subject to change without notice until the final conclusion of the agreement, estimates shall be non-committal. Dimensions, weights, illustrations and diagrams shall only be binding for the finishing if expressly confirmed in writing. Statements of weight and delivery dimensions shall be approximate and made to the best of our knowledge, albeit noncommittal.

3. We retain unlimited ownership, copyright and other commercial protection rights to estimates, problem solutions, diagrams, plans and other documents. Orderer shall engage to treat them confidentially and shall further engage not to make them accessible to third parties without our approval. Diagrams, plans and other documents forming a part of the quotation shall be returned to us without delay upon request if the order is not placed, also including reproductions thereof made by Orderer.

II. Prices

1. If not agreed to the contrary in individual cases, the prices stated by us shall be understood in EURO ex works plus statutory Value Added Tax, excluding insurance and transport.

Apart from this, the price list valid upon conclusion of the agreement shall apply.

2. Packaging costs shall be charged to Orderer as cheaply as possible. If not agreed to the contrary in individual cases in writing, the packaging shall not be taken back by us.

3. For goods or services not delivered or rendered within a period of three months after conclusion of the agreement, we reserve the right to change our prices accordingly if reductions or increases in price, in particular as a result of wage agreements or increase in material prices, occur after the conclusion of the agreement. We shall prove them to Orderer upon request.

For orders less than € 50.00 net, we shall charge a handling fee of € 10,00.

III. Payment terms

1. Our invoices may be paid either within 14 days of invoice date, less 2% cash discount, or not later than 30 days, strictly net. Contract works are payable immediately, without any deductions.

2. Orderer can only offset with claims which are legally effective, undisputed or have been acknowledged by us.

IV. Period for deliveries and services

1. With regard to the period for deliveries and services, our written order confirmation in the latest version shall exclusively be decisive. Compliance with the period shall presuppose punctual receipt of all the documents to be provided by Orderer, necessary approvals, releases, punctual clarification, approval of the plans, compliance with the agreed payment terms and other obligations. If these prerequisites are not fulfilled in good time, the period for deliveries and services shall be extended to a suitable amount.

2. We shall not assume any procurement risk. We shall be entitled to withdraw from the agreement to the extent that we have not received the object of delivery despite prior conclusion of a corresponding purchasing agreement; our responsibility for malice aforethought or negligence shall remain unaffected.

We shall inform Orderer in good time if the object of delivery is not available punctually and shall exercise the right of withdrawal without delay, if we wish to do so; in the event of withdrawal, we shall reimburse Orderer for the corresponding consideration.

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3. The properties stated in the order confirmation shall extensively and finally stipulate the properties of the object of delivery.

4. The delivery period shall be extended suitably if unforeseen obstacles outside our will occur, also including measures within the framework of industrial disputes, to the extent that such obstacles have a considerable influence on the completion or the delivery of the object of delivery. This shall also apply if the circumstances have occurred with our downstream suppliers. We shall also not be answerable for the aforementioned circumstances if they occur during arrears already in existence. The start and end of such obstacles shall be notified to Orderer by us as soon as possible.

V. Passage of risk

1. Dispatch shall be at Orderer's risk and for its account to the extent that Orderer is an entrepreneur within the meaning of § 14 German Civil Code. Transport insurance has been concluded by us at our expense in favour of Orderer.

2. Risk shall pass to Orderer as soon as the latter has been notified of readiness to dispatch of the commodities, albeit no later than the start of loading work in our Schorndorf-Miedelsbach works. This shall also apply if transport at no charge to Orderer has been agreed or we have assumed other services, e.g. delivery.

3. Part deliveries shall be admissible and shall not entitle to rejection of our service, even if a single delivery has been agreed.

VI. Retention of title

1. The object of delivery shall remain our property until fulfilment of all claims against Orderer accruing to us from the business relationship.

2. During the existence of retention of title, Orderer shall be banned from pledging or transferring by way of security. Resale shall only be permitted to re-sellers in the proper course of business and only under the condition that payment of the equivalent of the object of delivery is made to Orderer. Orderer shall also agree with its customer that the customer only acquires ownership with the said payment.

3. In the event of sale of the object of delivery or the new commodity, Orderer here and now cedes its claim from the further processing against its customer to us by way of security with all the subsidiary rights, without any specific declarations being necessary. The cession shall apply including all and any balance claims. However, the cession shall only apply to the amount corresponding to the price of the delivery of object charged by us. The share of the claim ceded shall be satisfied with priority.

4. Subject to revocation, Orderer shall be entitled to collect the claims ceded in Section VI. Orderer shall forward the payments made on the ceded claims up to the amount of the claim secured to us without delay.

If good and sufficient reason exists, in particular in arrears of payment, stoppage of payment, opening of insolvency proceedings, protest on a bill of exchange or substantiated indications of inability to pay or impending insolvency of Orderer, we shall be entitled to revoke Orderer's authorisation to collection. In addition, we can disclose the cession by way of security, exploit the ceded claims and demand disclosure of the cession by way of security by Orderer towards its customer following a prior warning and complying with a suitable period.

5. If a justified interest is made credible, Orderer shall provide us with the information necessary for us to make our claims against the Customer and hand over the necessary documents.

6. In seizures, confiscation or other disposals or interventions by third parties, Orderer shall notify us without delay.

7. If the realisable value of all securing rights accruing to us exceeds the amount of all secured claims by more than 10 %, we shall release a corresponding part of the securing rights upon request by Orderer; in the release, Orderer shall have the choice between various securing rights.

8. In the event of breaches of obligations by Orderer, in particular arrears in payment, we shall be entitled to demand return of the object of delivery or the new commodity and/or to withdraw from the contract, also without setting of a period; Orderer shall be obliged to return. The request for return of the object of delivery/the new commodity shall only represent a declaration of withdrawal on our side if it is expressly declared.

VII. Liability for defects and limitations of liability

1. Claims from defects shall not exist in only inconsiderable deviations from the agreed properties or in only inconsiderable impairment of the usefulness.

2. Orderer's warranty rights shall presuppose that the latter has properly complied with its obligations to examination and notification of defects pursuant to §§ 377, 378 German Commercial Code.

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3. Within the framework of subsequent performance, we shall not be obliged to new delivery or production under any circumstances. If subsequent performance (after-working) fails, Orderer shall have the right to reduce the purchase price or of the liability to withdraw from the agreement at its option.

The right of selection between remedy of defects or new delivery (new performance) shall accrue to us in any case.

If Orderer wishes to demand damage in lieu of performance or carry out remedy itself, failure of the after-working shall only exist to this extent after the second unsuccessful attempt. The statutory cases of waiving of the setting of a period shall remain unaffected.

The expenditure necessary for the purpose of subsequent fulfilment shall be borne by Orderer insofar as it is increased by the fact that the deliveries and services have been taken to a place other than our branch, unless taking them there corresponds to their proper use.

4. We shall be liable according to the statutory provisions in cases of malice aforethought or gross negligence by us or a representative or vicarious agents of ours.

Apart from this, we shall only be liable according to the Product Liability Act for injuries to life, limb or health or on account of culpable breach of cardinal contractual obligations.

The claim to damages for the breach of cardinal contractual obligations shall however be limited to the foreseeable damage typical for the agreement. Our liability shall also be limited to the foreseeable damage typical for the agreement in cases of malice aforethought or gross negligence if none of the exceptional cases stated in sentence 2 of the sub-section exists.

The liability for damage by the object of delivery to objects of legal protection of Orderer, e.g. damage to other objects, shall be completely ruled out. This shall not apply to the extent that malice aforethought or gross negligence exists or on account of injury to life, limb or health.

The regulations of the aforementioned sub-sections 1 and 2 shall also extend to damages alongside performance and damage in lieu of performance, regardless of the legal reason, in particular on account of defects, breach of obligations from the contractual situation or from tort. They shall also apply for the claim to reimbursement of futile expenditure. Liability for arrears shall however be based on sub-section 5, liability for impossibility of performance on sub-section 6.

An amendment of the onus of proof to Orderer's detriment shall not be connected with the aforementioned regulations.

5. We shall be liable for delay in performance in cases of malice aforethought or gross negligence by us or a representative or vicarious agents of ours according to statutory provisions. However, in cases of gross negligence, our liability shall be limited to the foreseeable damage typical for the agreement if none of the exceptional cases stated in sentence 5 of this provision exists.

Apart from this, our liability on account of delay of performance for damage alongside payment shall be limited to 5 % and for damage in lieu of performance to 5 % of the value of the delivery. Further claims by Client shall be ruled out - even after the expiry of any period set to us for performance. The aforementioned limitations shall not apply in the event of liability on account of injury of life, limb or health.

An amendment of the onus of proof to Orderer's detriment shall not be connected with the aforementioned regulations.

6. We shall be liable according to the statutory provisions in the event of impossibility of performance/service in cases of malice aforethought or gross negligence by us or a representative or vicarious agent of ours.

However, in cases of gross negligence, our liability shall only be limited to the foreseeable damage typical for the contract if none of the exceptional cases stated in sentence 5 of this provision exists. Apart from this, our liability for impossibility of performance shall be limited for damage and for reimbursement of fruitless expenditure to a total of 10% of the value of the delivery. Further claims of Orderer on account of impossibility of delivery shall be ruled out. This limitation shall not apply in cases of liability for malice aforethought, gross negligence or on account of injury to life, limb of health. Orderer's right to withdrawal from the agreement shall be unaffected. An amendment of the onus of proof to Orderer's detriment shall not be connected with the aforementioned regulations.

7. The period of barring by limitation for claims and rights on account of defects in the delivery - regardless of the legal reason - shall be 1 year. However, this shall not apply in the cases of § 438 sub-section 1 no. 1 German Civil Code, § 438 sub-section 1 no. 2 German Civil Code, § 479 sub-section 1 German Civil Code or § 634 a sub-section 1 no. 2 German Civil Code. The periods stated in the aforementioned sentence 2 shall be subject to a period of limitation of 3 years.

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The periods of barring by limitation according to the aforementioned sub-section shall also apply for all claims to damages against us connected with the defect - regardless of the legal foundation of the claim.

The period for barring by limitation pursuant to sub-sections 1 and 2 shall apply with the following proviso:

- a) The periods of barring by limitation shall generally not apply in cases of malice aforethought.
- b) The periods of barring by limitation shall also not apply if we have deceitfully concealed the defect. If the defect has been deceitfully concealed, the statutory periods of limitation which would apply without the existence of deceit shall apply in lieu of the periods stated in sub-section 1, ruling out the extension of the period in the event of deceit pursuant to §§ 438 sub-section 3 or 634 a sub-section 3 German Civil Code unless any other exceptional case pursuant to the present sub-section 3 exists.
- c) The periods of barring by limitation shall additionally not apply for claims to damage in the cases of injury or life, limb or health or freedom, in claims according to the Product Liability Act, in a breach of obligations by gross negligence or in a breach of cardinal contractual obligations.

The period of barring by limitation shall commence in all claims with delivery or with acceptance for contractual performances.

If not expressly agreed to the contrary, the statutory provisions shall survive the start of limitation, suspension of the statute of limitations, suspension and the new start of periods.

An amendment of the onus of proof to Orderer's detriment shall not be connected with the aforementioned regulations.

8. Orderer's claims to restitution against us pursuant to § 478 German Civil Code shall only exist to the extent that Orderer has not made any agreements with its customer exceeding the statutory claims from defects.

VIII. Place of performance

Place of performance for all performances resulting from the present agreement shall be Schorndorf-Miedelsbach, the latter also being the place of performance for payments insofar as Orderer is a merchant within the meaning of § 14 German Civil Code.

IX. Place of jurisdiction and legal order

1. German law shall govern all the legal relationships between us and Orderer, ruling out UN purchase law and German international private law.

2. The sole place of jurisdiction for all disputes arising from the contractual relationship shall be the headquarters of our company in Schorndorf-Miedelsbach if Orderer is an entrepreneur within the meaning of § 14 German Civil Code.