

Terms and Conditions of Sale

of Maschinenfabrik Laska Gesellschaft m.b.H.

These Terms and Conditions of Sale are primarily intended to regulate transactions between businesses. Taken as a basis for transactions with consumers according to § 1 para 1 subpara 2 Austrian Consumer Protection Act, Federal Law Gazette 49th section/1979 in individual cases, these TCS shall apply only to the extent they are not contrary to the provisions of the first main section of the said Act.

1. Preamble

- 1.1. These Terms and Conditions of Sale ("TCS") shall govern all legal relations between Maschinenfabrik Laska Gesellschaft m.b.H., Makartstraße 60, 4050 Traun ("LASKA") and its Contract Partner (collectively also referred to herein as "the Parties"), including, but not limited to, all goods deliveries, additional purchase orders, services and transactions on the basis of which products are purchased from LASKA or services are provided by LASKA.
- 1.2. Any terms and conditions of the Contract Partner deviating from or contrary or supplementary to these Terms and Conditions will not become an integral part of the contract. If the Contract Partner wishes to conclude a contract only according to its own specific terms, the Contract Partner must submit an express written declaration, including its terms and conditions, before the purchase order is accepted by LASKA. The Contract Partner's own terms shall not be binding on LASKA without LASKA's express written consent. Noncompliance with this procedure or non-acceptance by LASKA of the Contract Partner's terms shall be deemed a waiver by the Contract Partner of the application of its own terms (including a defense clause) and acceptance of LASKA's TCS, unless the Contract Partner expresses disagreement within three workdays after receipt of the order confirmation.
- 1.3. The version of the TCS applicable upon conclusion of the contract shall be binding (see also www.laska.at).

2. Contract formation

- 2.1. All quotes given by LASKA are non-binding quotes, if and to the extent to which they are not expressly declared binding for a specific period of time by LASKA.
- 2.2. An order placed shall be binding on the Contract Partner for four weeks after receipt by LASKA of the order. Cancellation of the order by the Contract Partner during this period is subject to LASKA's prior written consent.
- 2.3. A contract is concluded as soon as LASKA has confirmed a purchase order in writing but upon delivery of the object of purchase at the latest.
- 2.4. Any terms in the order confirmation deviating from the quote and communicated to the Contract Partner by LASKA shall be deemed accepted by the Contract Partner unless objected to by the Contract Partner in writing within three workdays.
- 2.5. It is the Contract Partner's responsibility to obtain any import and/or export licenses or foreign exchange permits or similar permits required for the performance of the contract in time.

3. Plans, documents and product descriptions

- 3.1. All data relating to weight, measure, capacity, price, performance etc. shown in catalogs, brochures, circulars, ads, illustrations, price lists etc. are only applicable if express reference to them is made in the quote and/or order confirmation.
- 3.2. Any plans, drawings and other technical documentation relating to the Contract Partner's intended order shall remain LASKA's intellectual property. No use, replication, reproduction, dissemination and delivery to third parties or publication and presentation is allowed without LASKA's express written consent.

4. Packaging and Materials Delivery

Unless otherwise agreed in writing,

- a) prices are quoted without packaging;
 - b) the object of purchase shall be packed, at the Contract Partner's cost, in compliance with commercial standards to prevent damage in transit to the specified destination under normal transport conditions; no packaging will be taken back without prior agreement.
5. **Passage of risk**
 - 5.1. Unless otherwise agreed in writing delivery is "ex works" (EXW) (ready for collection). Shipping costs and risks shall pass from LASKA to the Contract Partner when the object of purchase is collected.
 - 5.2. In other respects, the rules of the INCOTERMS edition applicable on the day of contract conclusion shall apply.
 - 5.3. If the Contract Partner fails to accept delivery of the object of purchase on the agreed date, the costs and risk shall nevertheless pass to the Contract Partner on the agreed delivery date.
 - 5.4. If shipping by LASKA to the Contract Partner is agreed, LASKA will be responsible for choosing the means of transportation unless otherwise agreed in writing. The Contract Partner shall bear all costs and risks of shipping.
 - 5.5. The Contract Partner may, at its option, procure transport insurance or any other insurance.

6. Period of delivery / Delay

- 6.1. Unless otherwise agreed the period of delivery begins on the later of:
 - a) the date of the order confirmation;
 - b) the day the Contract Partner has met all technical, commercial and financial requirements;
 - c) the date of receipt by LASKA of a down payment agreed and/or a payment guarantee.
- 6.2. LASKA has the right to make partial shipments and present partial invoices. In the case of delayed delivery due to a force majeure event experienced by LASKA, the period of delivery shall be extended by the period of time the event affecting LASKA continues plus a reasonable run-up time. Force majeure events are events which could not be reasonably foreseen and prevented by LASKA or the Contract Partner and are beyond their control. Force majeure events include any natural physical disaster such as earthquake, lightning, frost, storm and flood but also business disruptions, strike or other labor disturbance, supply shortages on suppliers' side, shortages of energy or raw materials, transport disruption, directives issued by authorities and other reasons beyond the sphere of either Party. LASKA undertakes to notify the Contract Partner as soon as possible that such an event has occurred. If such an event continues for more than four weeks, the Parties will seek a solution to deal with the effects. Should no agreement be reached by negotiation, either LASKA or the Contract Partner may terminate the contract in whole or in part, waiving any and all claims, by giving written notice to the other Party.
- 6.3. In the case of delayed delivery caused by reasons attributable to LASKA the Contract Partner will have the right to demand performance or withdraw from the contract after having granted a reasonable grace period of at least 30 days. The grace period notice must be provided in writing and include the cancellation. Any claims for damages shall be subject to Article 12 below.
- 6.4. Article 6.4 shall also apply to objects of purchase already delivered, provided that they cannot be used reasonably without the objects of purchase still to be delivered. In the case of justified termination as described above, the Contract Partner will be entitled to repayment of the sums paid for objects of purchase not delivered and objects of purchase that cannot be used. Where the delivery delay was caused by gross negligence or with intent by LASKA, the Contract Partner will additionally be entitled to reimbursement for justified expenses incurred up to the dissolution of the contract which are of no further use. Objects of purchase already delivered and not usable shall be returned to LASKA by the Contract Partner.
- 6.5. If the Contract Partner fails to accept delivery of the object of purchase provided according to the contract on the contractually agreed delivery location or the contractually agreed date, LASKA (notwithstanding the provisions of Article 5.3) shall be entitled to demand performance or terminate the contract after having granted a reasonable grace period. In the case of termination LASKA will at any rate be entitled to cancellation costs at a rate of 15% of the order's net value. LASKA's right to claim damages beyond this scope remains unaffected. LASKA may, at its option, store the object of purchase, with the Contract Partner being liable for all costs and expenses.

7. Acceptance test

- 7.1. Unless otherwise agreed in writing LASKA may, at its option, perform an acceptance test either at the LASKA production site (FAT) or at the installation site at the Contract Partner's premises (SAT).
- 7.2. LASKA shall notify the Contract Partner of the date of the acceptance test at least 14 days in advance, so that the Contract Partner can be present and/or arrange for a representative with full power of attorney to attend.
- 7.3. If the Contract Partner or its authorized representative are not present for the acceptance test although the Contract Partner was notified in accordance with para 7.2, the acceptance testing protocol shall be signed by LASKA. LASKA shall in any case provide the Contract Partner with a copy of the acceptance testing protocol, and the Contract Partner will not be able to dispute its accuracy, if the Contract Partner or its authorized representative was unable to sign the protocol due to their absence.
- 7.4. If an acceptance test was performed at the Contract Partner's request and nothing to the contrary was agreed in writing, the Contract Partner shall bear the cost of the acceptance test performed. In any event the Contract Partner shall pay the costs associated with an acceptance test incurred by the Contract Partner and/or its authorized representative, such as travel cost, food and accommodation, and expense allowance.
- 7.5. At the end of the acceptance test the Parties shall sign an acceptance testing protocol. The same applies if minor defects are found that must be corrected by LASKA.

8. Prices

- 8.1. All prices are quoted in EURO without discount and any other deduction and without value added tax. Accordingly, LASKA is entitled to fully charge the Contract Partner, in addition to the agreed net payments, also for the (Austrian and foreign) VAT payable by LASKA with respect to the goods or services provided. The same applies to any taxes subsequently imposed on LASKA.
- 8.2. Quoted prices do not include costs for packing, loading and, if applicable, shipping. The costs for all such procedures will be invoiced separately.
- 8.3. Quoted prices are based on the costs calculated when the quotation is provided. Any increase in such costs up to the delivery date shall be for the Contract Partner's account.

9. Terms of payment / no set-off

- 9.1. Invoices shall be paid in accordance with the payment terms agreed. Where no payment terms were agreed in a contract, one third of the price shall be payable within 30 days of receipt of the order confirmation and the remaining sum within 30 days of the invoice date.
- 9.2. If the Contract Partner fails to pay any payment to LASKA in time, LASKA may, at its option, insist on performance of the contract and, without prejudice to the right to suspend further performance of the contract, demand immediate payment of the total outstanding amount of the purchase price or give written notice of termination to the Contract Partner, granting a reasonable grace period.
- 9.3. In any case of payment delay by the Contract Partner LASKA will be entitled to charge interest at a rate of 9.2 % above the base rate.
- 9.4. As further damage caused by delay the Contract Partner shall in any case reimburse LASKA for any dunning and collection costs incurred.
- 9.5. In the case of termination the Contract Partner shall, upon LASKA's request, return to LASKA any objects of purchase already received and reimburse LASKA for the loss in value of the object of purchase and any justified expenditures LASKA incurred in performance of the contract. With regard to objects of purchase that have not yet been delivered LASKA shall be entitled to provide the Contract Partner with the finished and/or partly finished parts and charge a prorated share of the purchase price.
- 9.6. The Contract Partner is not entitled to withhold due payment of invoices because of warranty claims or other counterclaims that have not been recognized by LASKA. Nor is the Contract Partner entitled to offset claims against any counterclaims whatsoever. Offsetting claims against counterclaims shall not be allowed unless the counterclaims have been recognized by LASKA or legally established.

10. Retention of title

- 10.1. Until having received full payment LASKA retains full title to the object of purchase and is entitled to mark the item as its property.
- 10.2. If the item subject to retention of title is resold by the Contract Partner in the ordinary course of business, the Contract Partner shall be deemed to have assigned to LASKA its claims against its customer arising out of such sale in the amount of the invoice as agreed between LASKA and the Contract Partner (including VAT). The Contract Partner must demonstrably inform its customer about the retention of title by LASKA and the assignment of the purchase price claim to LASKA. After reselling the item that is still subject to retention of title, the Contract Partner shall disclose the name and address of its customer to LASKA. LASKA shall have the right to contact the Contract Partner's customer at any time and inform the customer about the assignment of the purchase price claim.
- 10.3. If the item subject to retention of title is impounded or exposed to any other intervention as collateral for the Contract Partner's liabilities before title has passed to the Contract Partner, the Contract Partner is obligated to notify LASKA without delay.

11. Warranty and notice of defects

- 11.1. The Contract Partner is obligated to examine the object of purchase for any defects immediately upon receipt, failing which the legal consequences described in § 377 para 2 Austrian Commercial Code (UGB) will arise. If any defect is detected, written notice of defects must be given promptly but no later than 10 days after receipt of the object of purchase, stating the delivery note number and the invoice number and including a reasonable, accurate description of the defect (and photos, if useful). In the case of a hidden defect that is not recognizable immediately on inspection, written notice of defects must be given promptly after its detection, but no later than 10 days after the defect has been discovered, stating the delivery note number and the invoice number.
- 11.2. The warranty period is twelve months as from the passing of risk, regardless of the date the defect was detectable. Any claim raised within this period of time must be asserted in court. The Contract Partner waives its rights of recourse according to § 933b Austrian General Civil Code (ABGB).
- 11.3. The Contract Partner must prove in each case that the defect existed already when the object of purchase was delivered.
- 11.4. If LASKA asks for a return of the defective object of purchase or parts thereof for repair or replacement, LASKA will bear the costs for and risk of shipping the items to LASKA, unless otherwise agreed in writing. The repaired object of purchase or parts thereof or replacements will be shipped back to the Contract Partner, with the Contract Partner being liable for all costs and risks, unless otherwise agreed in writing.
- 11.5. LASKA will be entitled to keep the defective object of purchase that was replaced according to this paragraph.
- 11.6. The cost of corrective action taken by the Contract Partner itself shall not be paid by LASKA without LASKA's prior written consent.
- 11.7. LASKA's warranties apply only to such defects which occur under proper operating conditions and during normal use. Product defects arising from:
 - a) unprofessional installation,
 - b) unprofessional maintenance,
 - c) any repairs or alterations performed by the Contract Partner or other third parties unprofessionally or without the written consent of LASKAare excluded.
- 11.8. As to parts of the object of purchase which were purchased by LASKA from subcontractors proposed by the Contract Partner, LASKA shall be liable only within the scope of the warranty claims to which it is itself entitled vis-à-vis the subcontractors.

When LASKA manufactures an object of purchase conforming to specifications provided by the Contract Partner, LASKA will not be liable for the accuracy of the design but only for proper implementation in accordance with the instructions supplied by the Contract Partner.

12. Liability

- 12.1. Except for product liability or bodily injury LASKA's liability will be limited to cases where the Contract Partner proves gross negligence or intent on LASKA's side. Any liability for loss of revenue and anticipated savings that do not materialize is excluded.
- 12.2. In no event will LASKA be liable towards the Contract Partner for any production outage, loss of profit, loss of use, loss of revenue or any other economic or indirect and consequential damages.
- 12.3. LASKA's liability for damages will for each individual damage event be limited to the amount insured under LASKA's third-party liability insurance. The maximum liability coverage is currently EUR 5.000.000,00. In the case of lack of insurance coverage the liability is limited to the order value (exclusive of VAT). The same applies to claims to rights of recourse according to § 12 Austrian Product Liability Act (PHG). On request and at the cost of the Contract Partner the liability coverage limit may be increased on the basis of a separate written agreement.
- 12.4. Any claims for compensation against LASKA must be made in writing and asserted in court within one year of the occurrence of the damage event, failing which the claims will lapse.
- 12.5. Avoidance or adaptation of contract for mistake are excluded.

13. Data protection

Notes on data security are available at www.laska.at.

14. Written form requirement

No amendments of or supplements to a contract and these TCS will be effective unless in writing; unless otherwise agreed this requirement is also met by emails. The same applies to a change of the written form requirement itself.

15. Severability Clause

If any provision of these TCS is or becomes invalid in whole or in part, this will not affect the validity of the remaining provisions. The provision that is invalid in whole or in part shall be replaced by a provision coming as close as possible to the economic purpose of the invalid provision.

16. Place of jurisdiction, governing law, place of performance

- 16.1. Any dispute arising directly or indirectly out of the contract shall be settled by the competent Austrian court that has subject-matter and local jurisdiction at LASKA's place of business. LASKA may, at its option, resort to the court having subject-matter and local jurisdiction at the Contract Partner's place of business.
- 16.2. The contract shall be governed by and interpreted in accordance with the Austrian laws, excluding its conflict of law rules and the UN Convention on Contracts for the International Sale of Goods.
- 16.3. The place of performance for delivery and payment shall be LASKA's place of business, regardless of any agreed-upon delivery location.

