



## ➤ GENERAL TERMS AND CONDITIONS OF ORDER, DELIVERY AND PAYMENT A 2022

### § 1 Scope of Terms, Exclusion of Conflicting Terms and Conditions

1. Our General Terms and Conditions of Order, Delivery and Payment shall apply to all our offers, deliveries and services.
2. The following Terms and Conditions shall only apply to entrepreneurs according to § 14 German Civil Code (BGB), legal entities under public law or an asset under public law (hereinafter referred to as **"Purchaser"**). They shall also apply to all our future offers, deliveries and services to the Purchaser without any further reference.
3. Our Terms and Conditions shall apply exclusively. The validity of different Terms and Conditions of the Purchaser is expressly rejected.
4. Our Terms and Conditions shall also apply if we carry out the delivery to the Purchaser without reservation in the knowledge that the Purchaser's Terms and Conditions conflict with or deviate from our Terms and Conditions.

### § 2 Conclusion of Contract, Scope of Delivery, Prohibition of Assignment

1. As a general rule, our offers are free of charge and non-binding. Any deal or agreement requires our written acceptance of order or our delivery of the goods. The same shall apply to any amendments, changes or side agreements.
2. Unless expressly agreed otherwise, the conclusion of the contract is subject to correct and timely delivery by our suppliers. This shall only apply in the event that we are not responsible for the non-delivery, in particular if a congruent covering transaction is concluded with our supplier. The Purchaser will be informed immediately about the non-availability of the service. Any consideration already provided will be refunded.
3. All information about our products, in particular pictures, sizes, performance criteria and any other technical data contained in our offers and brochures shall be regarded as approximate average values. Tolerances in quantity, weight, number of pieces and dimensions customary in this line of business are expressly reserved.
4. Our written acceptance of order or, in the event of lack of such acceptance of order, our offer shall be authoritative for the scope of delivery and the services to be rendered.
5. We are entitled to make excess or short deliveries in terms of unit or weight of up to 5 % compared with the order volume, insofar as this is reasonable for the Purchaser.
6. Partial deliveries are permissible if this is reasonable for the Purchaser.
7. All agreements, ancillary agreements, assurances and amendments to the contract shall be made in writing. The same shall apply to the waiver of the written form agreement.
8. All documents and data, on which our offer is based, such as drawings, illustrations, descriptions and weight and dimension specifications shall only become part of the contract if they are expressly included in our offers. We are entitled to make changes insofar as these changes are not of a fundamental nature and the contractual purpose of the delivery is not restricted in a way that is unreasonable for the Purchaser.
9. All offer documents, plans, drawings, estimates, documents and data – including in electronic form – remain our property and may neither be retained nor modified nor copied or otherwise reproduced or made available to third parties by the Purchaser and shall, at our request and at our discretion, either be handed over to us immediately or deleted. Even if we leave these documents to the Purchaser, our intellectual property rights remain unaffected hereby. The Purchaser is not entitled to utilize and transfer sample copies, patterns and models.
10. All tools for the manufacture of the delivery item, which are manufactured by us, shall remain our property, even if the Purchaser is charged proportionate costs for them.
11. The Purchaser shall not be entitled to assign any claims against us to third parties without our consent or to transfer them to third parties. The same shall apply to any of the Purchaser's claims against us in connection with the contractual relationship which have arisen by operation of law.
12. We reserve the right to make changes to the delivery item during the delivery period, provided that the delivery item and its appearance are not fundamentally changed and the contractual purpose of the delivery is not restricted in a way that is unreasonable for the Purchaser. Within a tolerance of 10 % of the total order quantity, production-related excess or short deliveries are permissible.

### § 3 Prices, Payment, Offsetting, Rights of Retention

1. Our prices shall apply for delivery "Ex Works" Metzingen, Germany, (Incoterms 2020) and are net prices plus the applicable statutory value added tax, even if this is not shown separately, plus the costs of packaging, freight, installation, postage, insurance charges, customs duties, any costs of banking and payment transactions and other ancillary costs.
2. Our invoices are immediately due for payment without deduction. The receipt of payment at the payment office specified by us shall be decisive for the timeliness of the payment.
3. In the case of payment arrears we are entitled, also in connection with other contractual relationships between the Purchaser and us, to make further deliveries dependent on the complete elimination of the payment arrears.
4. If the Purchaser is in arrears with payments or if payment terms are not complied with or if an application is filed for the opening of insolvency or composition proceedings against the assets of the Purchaser or if circumstances become known or visible which – according to our reasonable commercial discretion – give reason to doubt the credit worthiness of the Purchaser including facts which already existed at the time of the conclusion of the contract, but which were not known by us or which we didn't have to be aware of, we are entitled to refuse our performance and to demand advance payments or the provision of adequate securities for outstanding deliveries and to withdraw from the contract after a reasonable grace period to provide such securities has expired; further statutory rights remain unaffected hereby. The Purchaser shall be liable for all damages incurred by us by the non-fulfilment of the contract.
5. In the event of significant material price increases, wage increases or increases in energy costs between the conclusion of the contract and delivery, we shall be entitled to unilaterally increase the remuneration appropriately (§ 315 German Civil Code (BGB)) if there are more than four months between the conclusion of the contract and delivery.
6. In the event that we enter into framework and call orders, in the event of significant material price fluctuations within the term of confirmed framework and call orders for orders not yet placed, we reserve the right to adjust the prices with a notice period of four weeks if our costs increase by more than 5 percentage points in total, in particular due to material price increases, wage increases or increases in energy costs. If the price increase amounts to more than 10 percentage points, the Purchaser shall be entitled to withdraw from the contract.
7. We are entitled to charge interest on arrears in the amount of 5 percentage points above the respective base interest rate per annum, without the need for a prior reminder.
8. The Purchaser may only offset or assert a right of retention if his claims are undisputed or have been legally established. Complaints by the Purchaser do not affect either the obligation to pay or the due date, and it waives the exercise of a right to refuse performance or a right of retention, unless we or our legal agents or vicarious agents are guilty of gross breach of contract or the counterclaims of the Purchaser on which the right to refuse performance or the right of retention is based are undisputed or have been finally determined by a court of law.
9. The Purchaser shall be in default of payment at the latest after the expiry of 30 days from receipt of the invoice, unless there are reasons which lead to an earlier occurrence of default (e.g. reminder or payment deadline which can be determined according to the calendar). From the start of default, our claim shall bear interest at an annual rate of 9 percentage points above the base rate.
10. The net order value shall amount to at least € 100,00.
11. Cheques and drafts will only be accepted on account of performance after previous agreement. Interest and costs shall be borne by the Purchaser.

### § 4 Delivery Period, Partial Deliveries, Deviations in Quantity

1. The delivery period shall be the period agreed upon between the parties.
2. The term of delivery agreed upon shall be considered as a term of delivery aimed at, unless agreed explicitly upon otherwise in writing.
3. The adherence of the delivery period is subject to the supplier receiving its own deliveries correctly and promptly.
4. Delivery shall be "Ex Works", Incoterms 2020. The Purchaser shall apply to collect the goods immediately after information of readiness for dispatch.
5. The agreed delivery period shall generally begin with contract and requires the



clarification of all commercial and technical questions. However, it shall not begin before complete receipt of any documents or approvals to be provided by the Purchaser and any agreed advance payments. In the case of delivery "Ex Works", Incoterms 2020, the delivery period shall be deemed to have been complied with if the item to be delivered has been selected and is ready for dispatch within the agreed period and the Purchaser has been informed thereof. In the case of a sales shipment ("Versendungskauf"), the term of delivery shall be deemed complied with if the item that has to be delivered has been handed over to a person in charge of the transport prior to expiry of the delivery period or if the item could not be handed over without our fault.

6. Cases of force majeure, in particular, but not limited to, riots, strikes, war, floods, lockouts, fire, epidemics, diseases, confiscation, boycott, legal or official orders and restrictions or incorrect or delayed delivery by our suppliers and other unforeseeable, uncontrollable, extraordinary events coming from outside which cannot be prevented even by extreme care, and affect us or our suppliers, make our delivery and performance obligations unreasonably difficult or impossible and are not attributable to us, extend the delivery and performance obligations for the duration of the existence of the cases or events with an appropriate restart time, if we cannot fulfill our delivery and performance obligation despite reasonable measures.
7. The extension of the delivery and performance obligations in accordance with subsection 6. above shall also apply if these cases or events occur at a time when we are in default.
8. If the delivery and service obligations are extended to a reasonable period of time due to such cases or events in accordance with subsection 6. above, the Purchaser shall be entitled to withdraw from the contract after expiry of these extended delivery and service obligations. If the Purchaser is interested in partial deliveries, the Purchaser may also withdraw from the contract in part. If we have already provided partial deliveries and/or partial services, the Purchaser may only withdraw from the entire contract if he can prove that he has no interest in partial delivery and/or service on our part. Further legal or contractual rights to withdraw from the contract remain unaffected by this.
9. If we should be in delay of delivery, the Purchaser shall be entitled to withdraw from the contract after setting a reasonable grace period and its fruitless expiry, or, insofar as the Purchaser is interested in a partial delivery, he shall be entitled to withdraw from the unfulfilled part of the contract. If we have already provided partial deliveries, the Purchaser may only withdraw from the entire contract if he can prove that he has no interest in the partial delivery on our part. Further claims of any kind of the Purchaser – in particular claims for damages, including consequential damages – shall be excluded unless otherwise explicitly granted in § 9 below.
10. We are entitled to deliver before the expiry of the delivery date and to deliver in partial deliveries insofar as conflicting interests of the Purchaser are not unreasonably impaired.
11. If the Purchaser is in default of acceptance of the goods or can otherwise be held responsible for a delay in dispatch, we may store the products at the Purchaser's risk and expense and invoice them as delivered Ex Works. We are entitled to charge at least 1.5 % of the value of the goods per month as a storage fee. We expressly reserve the right to assert claims for damages in excess thereof. After the grace period for accepting the delivery set by us has expired, we may withdraw from the contract and demand compensation for damages in lieu of performance. Further rights shall remain unaffected. The setting of a grace period is not required if the Purchaser seriously and finally declines acceptance or it is obvious that the Purchaser is not able to pay the purchase price or to accept the delivery within the grace period. The amount of damages is deemed to be an amount of 20 percent of the order value. The amount of damage shall be set off against any advance payment made. The parties are free to demonstrate that the actual damage actually incurred was higher or lower than this amount.
12. In the case of custom-made nozzles the ordered number of pieces cannot always be complied with due to technical production reasons and the associated risk of rejects. We reserve the right to make minor over- or underdeliveries at an appropriate charge. These deliveries shall not constitute a defect within the meaning of the German Civil Code (BGB).

#### **§ 5 Passing of Risk, Dispatch, Packaging**

1. In the absence of any written agreement to the contract, our deliveries shall be made "Ex Works", Incoterms 2020.
2. Therefore, the risk of accidental loss or accidental deterioration shall pass to the Purchaser as soon as the Purchaser is notified of the readiness for dispatch and the delivery item is set aside. This shall also apply if we have provided additional services such as loading, transport or unloading. If the performance is delayed due to reasons caused by the Purchaser, the risk of accidental loss shall pass to the Purchaser with the notification of provision of the delivery.

3. If a sales shipment ("Versendungskauf") is agreed upon, the risk of accidental deterioration or accidental loss shall pass to the Purchaser with the dispatch of the delivery item or the handover to a transport person Ex Works or place of dispatch at the latest. If the delivery is delayed due to reasons caused by the Purchaser, the risk shall already pass with the notification of readiness for dispatch. § 5 subsection 2. sentence 3 shall apply accordingly.
4. If we undertake to transport the deliverables for the Purchaser, we are entitled to choose the manner of packaging and dispatch of the items upon our sole discretion, unless agreed otherwise upon in writing.
5. Unless otherwise agreed, the Purchaser is responsible for the conclusion of transport insurance.
6. If it is agreed upon that we bear the risk of accidental loss or accidental deterioration, the Purchaser shall check the dispatched goods immediately upon arrival of the goods and in presence of the transport person for external transport damages. The Purchaser shall inform the transport person about externally visible losses or damages of the delivery item upon delivery at the latest under sufficiently clear labelling of the losses or the damages and inform us immediately about this in writing. The Purchaser shall inform us in writing about losses or damages, which are not visible externally, within 5 calendar days. In addition, the provisions of § 438 of the German Commercial Code (HGB) as well as the obligations to give notice of defects pursuant to § 7 subsection 4. shall apply.

#### **§ 6 Retention of Title**

1. We retain the title to all goods delivered by us until complete fulfillment of all claims resulting from the business connection with the Purchaser including claims resulting from cheques and drafts as well as any recourse claims under the law of cheques and drafts arising from cheque or draft payments made on account of performance. If payment is agreed upon with the Purchaser on the basis of cheque-draft-procedure, the retention of title shall last until the danger of recourse from the drafts made available by us has ceased to exist.
2. The Purchaser shall, at any time upon our request and in the event of an insolvency application, clearly mark the goods subject to retention of title as "property of Lechler GmbH".
3. The Purchaser shall handle the goods subject to retention of title with care; in particular, the Purchaser shall adequately insure these goods at replacement value against damages caused by fire, water and theft. If and to the extent maintenance and inspection services are required, these services shall be effected by the Purchaser in a timely manner.
4. Any processing of the delivered goods by the Purchaser will be done for us as producer according to § 950 German Civil Code (BGB), without any obligations arising for us. If the Purchaser connects, mixes, blends or processes the delivered item with other items, we acquire joint ownership of the resulting goods. The share of the joint ownership corresponds to the relation of the invoice value of the delivered item to the invoice values of the other used items. The Purchaser is authorized to connect, to, mix, to blend or to process the delivered item in the ordinary course of business, provided that the aforementioned security interests are preserved.
5. The Purchaser is entitled to sell the delivered items and the items resulting from them in accordance with the preceding subsection 4. above (hereinafter collectively referred to as "Items Subject to Retention of Title") in the ordinary course of business provided that the extended retention of title (assignment of claims in accordance with subsection 6. below) is ensured. Any other acts of disposal, in particular pledging, leasing, lending or transfer by way of security shall not be permitted.
6. The Purchaser hereby shall assign to us all claims resulting from the resale or other use of the delivered goods to third parties. We hereby accept this assignment. If the Item Subject to Retention of Title is jointly owned by us, such assignment shall only relate to the amount of our claims against the Purchaser.
7. The Purchaser is entitled to dispose of the Items Subject To Retention Of Title, to process, connect, mix and blend the delivered items and to collect the assigned claims only in the ordinary course of business and only revocably. The revocation may only occur, if the Purchaser has not correctly fulfilled its duties, in particular his payment duties, if it is insolvent, overindebted or unable to pay, or the opening of insolvency proceedings against his assets has been applied for. In this case, the Purchaser shall notify the debtor of the assignment at our request; we are also entitled to disclose the extended retention of title to the Purchaser's client. In the event of revocation to collect the assigned claims the Purchaser shall give us the name or company of his client and his address.
8. The Purchaser's authorization to dispose of the Items Subject To Retention of Title as well as for processing, connection, mixing, blending, furthermore for the collection of the assigned claims shall terminate without express revocation, in the event that the Purchaser becomes insolvent, suspends payments,



or if the Purchaser or a third party files for insolvency of the Purchaser's assets or if the Purchaser's over-indebtedness is established.

9. In the cases of the subsections 7. and 8., we are entitled to withdraw from the contract and to request the return of the Item Subject To Retention of Title after reminder and fruitless expiry of an appropriate additional respite. The Purchaser is obliged to release such items. Under these conditions we are entitled to disclose the extended retention of title to the Purchaser's client.
10. In the event that the securities assigned to us exceed the value of our claims by more than 20%, we shall, at the Purchaser's request, release securities to an appropriate amount at our own discretion.
11. The Purchaser shall immediately inform us in writing about imminent or executed access by third parties to the Items Subject To Retention of Title or against the assigned claims, handing over the documents necessary for an intervention. Any intervention costs, which also include any legal costs, shall be borne internally by the customer.

### **§ 7 Warranty**

1. Insofar as the contractual relationship between us and the Purchaser is a purchase or work contract, we shall be liable for defects of quality and workmanship and defects of title ("Sach- und Rechtsmängel") existing at the time of the passing of risk according to the following provisions. In addition, the statutory provisions shall apply.
2. Any warranty rights are available to the original purchaser only and may not be assigned to a third party without our consent.
3. Certain characteristics are only considered as warranted if expressly confirmed in writing. A guarantee shall only be deemed issued if a characteristic is expressly denominated as "guaranteed" in writing.
4. Within the scope of the applicability of § 377 German Commercial Code (HGB) the Purchaser shall immediately give notice in writing of any kind of obvious material defects, deviations in quantity and false deliveries, at the latest within 14 days after delivery, in any case before connection, mixture, processing or installation; otherwise, the goods are considered to be approved despite these defects, unless we, our legal agents or our vicarious agents have acted with fraudulent intent. The Purchaser shall immediately give notice in writing of any hidden material defects, at the latest within 14 days after their discovery. In addition, § 377 German Commercial Code (HGB) shall apply. § 5 subsection 6. shall remain unaffected hereby.
5. The Purchaser shall give us the opportunity to jointly assess the notified complaints and to be present at any extraction of material samples.
6. Subject to the following provisions of this subsection 6, the period of limitation for the Purchaser's claims for defects shall be one year, calculated from the start of the statutory period of limitation. If we have fraudulently concealed a defect, the statutory periods shall apply to any claims for damages. The statutory periods shall also apply to the limitation of any claims for damages by the Purchaser due to defects if we are guilty of intent or gross negligence or if the claim for damages is based on injury to life, body or health.
7. Unless otherwise stated in this subsection 7., our warranty for defects of material and defects of title shall be limited to supplementary performance. Within the scope of our supplementary performance obligation, we are entitled, at our discretion, either to remedy the defect (subsequent improvement) or to deliver faultless material (replacement). If our supplementary performance is delayed beyond a commensurate period of time, or if the supplementary performance is unsuccessful despite repeated efforts, the Purchaser is entitled to reduce the purchase price or to withdraw from the contract. A withdrawal from the contract is excluded if the defect is only of minor nature. Furthermore, in the event of faultless partial deliveries, the Purchaser may only withdraw from the entire contract if it can evidence that it has no interest in the partial performance. Further claims, in particular claims for reimbursement of expenses and claims for damages, are excluded unless provided for otherwise in § 9 below. Replaced parts shall be returned to us at our expense upon request.
8. The Purchaser shall return the defective good to us for subsequent improvement or replacement at its own risk, unless a reshipment is not possible because of the kind of delivery. We shall bear the transport, travel, labor and material costs incurred for the purpose of subsequent performance, but only from the place to which the purchased items were delivered as intended and at most only up to the amount of the value of the delivery item in defect-free condition. Replaced delivery items or parts thereof shall become our property or remain our property.
9. The Purchaser has to give us the necessary time and opportunity for subsequent improvement or replacement. Only in the event of urgent cases of risk to the plant safety, the protection against unreasonably high damages or delay with the removal of defects, the Purchaser shall be entitled to cure the defect

by itself or by a third party after prior notice and to demand from us restitution of the necessary costs.

10. However, no warranty claims shall exist if the Purchaser (i) changes the delivery item or has it changed by third parties, and/or (ii) parts of the delivery item are not replaced or replaced by original spare parts from us but by spare parts from a third party, without this being necessary due to default on our part with regard to a duty incumbent on us and the fruitless expiry of a grace period set by the Purchaser or for other substantial reasons in order to enable use of the delivery item in accordance with the contract. This shall not apply if the Purchaser proves that the defects in question were not caused by the changes made to the delivery item or the spare parts by the third party by him or the third party.
11. Claims for recourse according to §§ 478, 445a and 445b German Civil Code (BGB) are excluded, unless the claim by the Customer of the Purchaser was legitimate and only to the statutory extent, except for gestures of goodwill which were not coordinated with us and require the observation of own duties of the person entitled to recourse, in particular the observation of the requirement to make a complaint in respect of a defect immediately on receipt of goods.
12. The processing or installation of delivered items is always deemed to be a waiver of the notice of defects to the extent the defect was obvious.
13. In the event of legitimate notices of defects, payments by the Purchaser may only be withheld in an adequate proportion to the material defects occurred. In the event of an unjustified notice of defects, we are entitled to demand from the Customer reimbursement of the expenses resulting therefrom.
14. Claims based on defects are excluded in the event of minor deviations from the agreed or usual characteristics or utility, e.g. minor differences in color, dimension and/or quality or performance features of the products.
15. The recognition of a material defect requires always the written form.
16. There shall be no warranty obligation if the intended use of the delivery item by the Purchaser deviates from the common use, unless agreed upon in writing.
17. The warranty rights only extend to new products. Unless agreed upon otherwise, used products are sold as is under exclusion of any warranty rights.
18. In the following cases there are no warranty claims: Unsuitable or improper use of the products, including accidental or deliberate destruction of or damage to the products, faulty assembly by the Purchaser or third parties, wear and tear and natural wear and tear, faulty negligent handling, improper maintenance, mechanical, chemical, electronic, electrical and comparable influences that do not correspond to the intended, average standard influences.

### **§ 8 Withdrawal, Impossibility of Performance**

1. The Purchaser may – apart from the other rights set out in these Terms and Conditions – also withdraw from the contract by written declaration if it has become completely impossible for us to fulfill the contract prior to the transfer of risk. In the event of partial impossibility the right of withdrawal shall only exist if the Purchaser can prove that it has no interest in the partial delivery or partial performance – for the rest, the Purchaser may demand an appropriate reduction of the price. Further claims of the purchaser against us are excluded unless otherwise stipulated in § 9 below. Furthermore, a withdrawal from the contract is only permissible if the breach of duty is significant.
2. If neither of the contracting parties is responsible for the impossibility, we shall be entitled to a part of the remuneration corresponding to the service rendered.

### **§ 9 Liability**

1. Our liability for damages, out of which legal reasons whatsoever, is limited to
  - a) our acts of intent or gross negligence including acts of our executive employees and vicarious agents
  - b) culpable injury of life, body, health
  - c) culpable material breach of contract
  - d) defects intentionally misrepresented by us through silence or whose absence we have guaranteed
  - e) the extent we are liable for personal and material damages with respect to privately used items under the German Product Liability Act.

Further claims for damages are excluded.

2. A contractual obligation shall be material if its fulfillment is a precondition for the proper performance of the contract and on the observance of which the contractual partner generally relies and may rely.
3. In the event of a slightly negligent breach of essential contractual obligations (excluding intent and gross negligence), however, our liability shall be limited to the reasonably foreseeable damage typical of the contract. The foreseeable loss typical for this kind of contract shall generally be the amount of the contract value of the particular performance.



4. If we have covered the contractypical risk of damage according to § 9 subsection 3. above, by a liability insurance, our liability and the liability of our legal agents or vicarious agents shall be limited to the amount of the benefits of the liability insurance. Insofar as the insurer is not liable to pay, we shall pay compensation up to the amount of the sum insured.

#### **§ 10 Intellectual Property Rights and Defects of Title**

1. Unless agreed upon otherwise, we shall only deliver products in the Federal Republic of Germany that are not infringing any intellectual property rights and copyrights of third parties (hereinafter altogether referred to as "Intellectual Property Rights"). If a third party asserts any justified claims against the Purchaser based on the infringement of Intellectual Property Rights, concerning any correctly used deliveries by us, we shall be liable to the Purchaser subject to the following provisions:
  2. We will at our option and at our expense either obtain a right of use for the corresponding deliveries, change them in such a way that the Intellectual Property Right are not infringed or will exchange them. If none of the above measures is feasible at reasonable conditions, the Purchaser shall have the statutory rights to withdraw from the contract or to reduce the contract price.
  3. Our obligation to pay damages shall be governed by § 9.
  4. The aforementioned obligations shall only apply, if the Purchaser has immediately informed us about any such third party claims in writing, did not acknowledge an infringement and has reserved all defensive measures and settlement negotiations to us. If the Purchaser ceases to use the delivery due to reasons of damage reduction or due to other reasons, the Purchaser shall inform the third party that the suspension of use does not represent any acknowledgement of an infringement of Intellectual Property Rights.
  5. Any claims of the Purchaser are excluded if and to the extent the Purchaser is responsible for the infringement of the Intellectual Property Rights.
  6. Furthermore, any claims of the Customer are excluded insofar as the infringement of Intellectual Property Rights is caused by special requirements of the Customer, through any use which was not foreseeable or due to the fact that the delivery is changed by the Customer or used together with products which were not delivered by us.
  7. In case of other defects in title, the provisions of § 7 shall apply accordingly.
  8. Further or other claims of the Customer against us other than those set out in § 10 and in § 7 are excluded.

#### **§ 11 Repairs and Services**

1. The repairs mentioned in this § 11 refer to repairs which are not covered by our warranty obligation for defects of quality.
2. Repairs shall be carried out in a manner that the item under repair becomes fully functional again afterwards. Parts that are no longer in perfect working order will be replaced if it is necessary for proper functioning.
3. For the preparation of a cost estimate, the Purchaser will be charged a fixed expense fee of € 150,00 plus VAT. If the Purchaser commissions us to carry out a repair on the basis of the cost estimate, this fixed expense fee shall not apply.

#### **§ 12 Installation and commissioning**

1. Insofar as installation and commissioning are the subject matter of the contract, the prices therefor are based on the assumption that a smooth installation process is guaranteed. If we incur additional expenses due to the circumstances listed below, these shall be invoiced to the Purchaser in accordance with the assembly rates, unless we are responsible for these circumstances:
  - a) overtime;
  - b) interruption of the installation requiring new arrivals and departures;
  - c) interlinking with equipment that is not part of our scope of delivery;
  - d) construction of foundations and work on foundations;
  - e) air and electrical supply to the facilities;
  - f) waiting times;
  - g) necessary work to be carried out by the builder or the Purchaser which is not carried out on time or is carried out incorrectly;
  - h) unprepared or untidy workplace;
  - i) if delivery items cannot be unloaded on time and as agreed at the installation site of the plant;
  - j) if we do not have a sufficient number of components available for commissioning and acceptance of the plant after the plant has been erected and assembled at the Purchaser's works (sufficient number of components mean that continuous operation can be carried out under production conditions);

- k) if defective or non-dimensional components or components deviating from drawings are made available to us for testing.
2. The Purchaser shall provide additional manpower (assistants) free of charge if this is required for installation and commissioning.

#### **§ 13 Installation Conditions**

If installation services are subject of the agreement, the following conditions shall apply in addition:

1. The Purchaser shall ensure that a cleaned installation site is provided to our personnel.
2. Maintenance staff and operating personnel of the Purchaser shall be present in order to support our personnel.
3. The Purchaser shall provide additional manpower (auxiliary personnel), tools, equipment, lubricants, energy supply, water and the like free of charge, if it is necessary for the work assignment.
4. The Purchaser shall provide our personnel a lockable room for the safe storage of our equipment. The Purchaser shall insure our tools against theft, fire and water damages.
5. The Purchaser shall inform us about all applicable statutory, official and other regulations referring to performance of works, operation, health protection and accident prevention.
6. The Purchaser shall support our personnel in the execution of work on the Purchaser's expense.
7. The Purchaser shall take all necessary steps to protect people and property at the work place. The Purchaser shall inform our head of operations about any special safety regulations insofar as these are of significance for our personnel.
8. The Purchaser's technical assistance shall assure that the installation can commence immediately upon arrival of our personnel and can be continued without delay until the Purchaser's acceptance.
9. The Purchaser must ensure that the agreed installation date takes place on the agreed date.
10. If the Purchaser culpably violates the obligation of the preceding subsection 9. we are entitled to make the delivery in advance at the Purchaser's expense.
11. If the Purchaser does not adhere to its obligations, and after having set a deadline, we are entitled, but not obliged, to take actions on behalf of the Purchaser and at the Purchaser's cost. Any additional expenses caused by this shall be reimbursed to us in addition to the agreed remuneration on the basis of our respectively applicable hourly rates. Our statutory rights and claims remain unaffected hereby.
12. The Purchaser is not entitled to engage our personnel in any non-contractual services without our prior written consent.
13. The Purchaser shall be responsible for a regular data backup. In the event of a loss of data caused by the Purchaser, our liability shall – subject to § 9 – therefore be limited to the costs which would have occurred in case of a proper data backup of the Purchaser, especially costs for copies of data of safety copies and the recovery of data, which would have been lost also in the case of a correctly executed backup.

#### **§ 14 Acceptance**

1. If an acceptance is agreed upon or if an acceptance is necessary in accordance with statutory requirements, the following provisions of this § 14 shall apply.
2. The acceptance is made in consultation with the Purchaser at the Purchaser's plant.
3. The Purchaser shall accept our services performed as soon as the Purchaser has been notified of their completion and any contractual agreed testing has been carried out.
4. The Purchaser shall inform us about any deviations from the specifications or the agreed characteristics immediately upon their discovery in text form. The notification shall contain a sufficiently precise description of the observed deviation in order to allow us to identify and eliminate the deviation.
5. The Purchaser shall not be entitled to refuse the acceptance due to minor defects. Such defects shall be remedied within the scope of our warranty obligations.
6. We will eliminate major defects as soon as possible and the work shall then be submitted to the Purchaser for acceptance; the new acceptance test is limited to the determination of the elimination of the defect. Minor defects shall be documented by the Purchaser as a defect in the acceptance protocol in writing and shall be eliminated by us within the scope of warranty.
7. If the Purchaser refuses the acceptance without justification or without giving any reasons, we reserve the right to set a time limit of 14 days in writing to



declare the acceptance. The acceptance shall be deemed to be given if the Purchaser does not accept the work within this time limit or if the Purchaser has not specified any substantial defects in writing.

8. In any case, the work result shall be deemed accepted if the Purchaser is using it or could use it productively. From such time, the warranty period shall begin and we have a claim for payment of the still outstanding balances.
9. The Purchaser is not entitled to refuse the final acceptance due to disruptions during the final acceptance for which we are not responsible.
10. The Purchaser shall provide skilled operating personnel necessary for the final acceptance in due time and free of charge.
11. Our liability for obvious defects ceases to exist upon final acceptance unless the Purchaser has explicitly reserved the right to assert a claim for a defect known to the Purchaser.

#### **§ 15 Export Licence Requirement**

1. If an export licence is required for the deliveries and services of the Purchaser, the offer is subject to the proviso that all licences required for export are granted in a timely and sufficient manner.
2. Acts of public authorities concerning export licences, in particular the revocation or limitation of licences issued, shall be considered as force majeure.

#### **§ 16 Place of Performance, Place of Jurisdiction, Applicable Law**

1. For all claims arising out of the business relationship between the Purchaser and us, the place of performance shall be 72555 Metzingen, Germany.
2. The exclusive place of jurisdiction for all claims resulting from the business relationship, including claims from cheques and drafts shall be the court in whose district we have our registered office. We are also authorized, however, to sue the Purchaser at its general place of jurisdiction.
3. These Terms and Conditions and all disputes arising from business relationship between us and the Purchaser shall exclusively be governed by German law excluding the rules of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and international private law.
4. Should one or another provision of these Terms and Conditions be or become fully or partly invalid, the validity of the remaining provisions shall remain unaffected hereby. In this case the parties are obliged to agree a new provision that comes closest to the purpose pursued by the invalid or invalidated provision.

Valid from January 1, 2022

Lechler GmbH · Ulmer Strasse 128 · 72555 Metzingen, Germany  
info@lechler.de · www.lechler.com