

GENERAL TERMS AND CONDITIONS OF PURCHASE of LEONI AG

1. Field of application

For all contractual declarations, supplies and services rendered to LEONI AG (hereinafter LEONI), as well as for future business with suppliers, unless otherwise expressly agreed, only these General Terms and Conditions of Purchase are valid. However, these Terms and Conditions are not valid for consumers according to § 13 of the German Civil Code. General Terms and Conditions of a supplier will not be applied unless LEONI has accepted their validity in writing.

2. Conclusion of contract

2.1 Contracts of purchase, amendments and/or any supplements must be made in writing. All offers from suppliers have to correspond to LEONI's inquiry or must include an explicit indication of the deviation. They are free of charge for LEONI.

2.2 LEONI is bound to an order for one week. Calls of deliveries are binding unless the supplier has objected at the latest within one week after receipt of call.

2.3 LEONI can demand changes with regard to object, amount and type of the goods before the goods are delivered if this is not unreasonable for the supplier. If the changes have an impact on costs or dates the parties will enter into an adequate arrangement. Calls of deliveries can be made by remote data transmission any time.

3. Prices and payment conditions

3.1 The prices quoted in the order are binding and are to be understood plus VAT. All additional services of the supplier are included, especially packaging and delivery free LEONI's place of business or place of delivery agreed upon, unless otherwise agreed in writing.

3.2 Invoices will be paid by LEONI after the date of delivery, delivery of goods and receipt of invoice, within 90 days net, within 40 days with a discount of 2 % and within 21 days with a discount of 3 %.

3.3 The supplier is only allowed to set off a claim or to hold back goods if his counterclaim is uncontested or has been recognized by declaratory judgement. The supplier's right of retention is restricted to claims resulting from the respective specific contract. Assignment or collection of a claim against LEONI by third parties is excluded, unless these come from deliveries with an extended reservation of title.

4. Deliveries, delivery times and passing of risk

4.1 Deliveries and services are to be effected in own person or from own production at the place of business of LEONI. Without LEONI's agreement partial deliveries or partial services as well as the use of subcontractors are not permitted.

4.2 Prior to each delivery the supplier will send an advice of dispatch in a single copy as an announcement of delivery to the order address. LEONI's general shipping terms are valid in all other respects. These will be sent to the supplier any time upon request.

4.3 The time of delivery stated in the order is calculated from the day of order and is binding. It is observed with the arrival of the goods at LEONI or at the place of delivery stated by LEONI, or in the case of work delivery on the day of approval. Should the circumstances endangering this date lie within the supplier's responsibility, the supplier will compensate LEONI for additional expenditures and/or damage caused by the delay on a flat-rate basis of 25 % of the contract sum, unless LEONI proves higher or the supplier lower expenditures or damages. Further statutory claims remain unaffected.

4.4 LEONI can give the supplier a 14 days period of grace, if the supplier cannot provide delivery and service within the time of delivery. After the period has expired without success LEONI is entitled to withdraw from the contract by written statement and to claim damages. In this case, the compensation per day will amount to 0.2 % of the total contract amount, but will not exceed 20 % of the total contract amount. In the case of services calculated according to costs, the compensation will be 20 % of the service not yet rendered, unless LEONI proves higher or the supplier lower damage.

4.5 The rights to deliveries and services are exclusively due to LEONI.

4.6 The risk passes to LEONI independent of the mode of dispatch with delivery of the goods at the place of business or agreed place of delivery, unless transport is carried out by LEONI.

5. Reservation of title

5.1 If LEONI provides goods to the supplier, LEONI retains title to these goods. The goods are to be used exclusively for LEONI's order. Manufacturing or transformation by the supplier will be carried out for LEONI. In the case of manufacturing or utilisation LEONI will acquire a co-owner's share in the new goods in proportion of the value of the manufactured goods and the manufactured goods at the time of manufacturing. The supplier stores the co-ownership free of charge for LEONI.

5.2 In the case of the supplier's delay in payment or violation of obligations from the reservation of title LEONI is entitled to reclaim the goods provided and – after written announcement with an adequate period of time – to utilize them in the best possible way by setting them off against the contractual counter-performance. Immediately after takeover of the goods the supplier can require in writing to have their estimated price determined by an officially appointed and sworn expert at his expense. In this case the set-off will correspond to the estimated price. The costs for takeover and utilisation are borne by the supplier and will amount to 10 % of the revenue of the utilized product plus VAT, unless LEONI proves higher or the supplier lower damage costs.

5.3 As long as the reservation of title is in force and without LEONI's prior written consent the goods provided must not be sold, pledged, assigned by way of security, let on hire, left or changed in any other way by the supplier which could impair LEONI's security interest. If any third party seizes the goods, especially asserts a contractor's lien, the supplier has to inform this party of the reservation of title and to notify LEONI immediately. The costs for the lifting of the seizure and for a possible replacement are borne by the supplier.

6. Confidentiality

6.1 The supplier is obligated to treat all details he gets to know due to the business relationship that are of commercial and technical nature and are not common knowledge as business secrets. Documents, information, samples, patterns, drawings, models, tools and other means of production provided by LEONI to the supplier will remain LEONI's property. If they are marked as "confidential" or if they are recognizable as business or company secrets for any other reason, the supplier has to treat them as confidential beyond the end of the contract and is not permitted without LEONI's consent to record, utilise or pass them on to any third party, unless this is necessary to attain the purpose of the contract. This also applies to work via modem and products which are manufactured according to these documents. The supplier has to transfer the corresponding obligations also to his employees, agents and subcontractors. All documents have to be returned at the supplier's risk and cost at the end of the contract. A right of retention is excluded.

6.2 Models, moulds, templates, samples, tools and other means of production, as well as confidential information LEONI provides the supplier with or pays completely may only be used for deliveries to third parties with LEONI's prior written consent.

7. Quality and documentation

7.1 The following regulations 7.2 to 7.5 of item IX of the General Terms and Conditions of VDA (German Association of the Automotive Industry) for the purchase of production material and spare parts destined for automobiles are considered to be valid:

7.2 With regard to deliveries the supplier shall comply with the acknowledged standards of engineering, the safety regulations and the agreed technical data. Changes of the goods to be supplied require the purchaser's prior written consent. For a first sample inspection, reference is made to the VDA publication "Sicherung der Qualität von Lieferungen – Lieferantenauswahl/Produktionsprozess – und Produktfreigabe/Qualitätsleistung in der Serie", Frankfurt am Main 1998. Regardless of this the supplier has to permanently control the quality of the goods delivered. The contracting parties will inform each other of the possibilities of quality improvement.

7.3 Should the kind and extent of testing, as well as instruments and testing methods, not have been agreed between the supplier and the purchaser, the purchaser shall, upon the supplier's request, agree to discuss the testing with the supplier within the scope of his know-how, experiences and possibilities in order to find out the required state of testing techniques for each case being considered. In addition, the purchaser shall inform the supplier upon request about the applicable safety regulations.

7.4 With regard to vehicle parts especially marked in the technical documentation or by separate agreement, for instance with "D", the supplier has to keep special records as to when, in what manner and by whom the goods supplied have been tested with regard to the characteristics required to be recorded and which results were achieved by the quality tests required. The test records have to be kept for ten years and have to be presented to the purchaser if required. The supplier has to obligate any sub-supplier to the same extent if legally possible. For instructions reference is made to the VDA publication "Nachweisführung – Leitfaden zur Dokumentation und Archivierung von Qualitätsforderungen", Frankfurt am Main 1998.

7.5 As far as authorities responsible for vehicle safety, emissions standards and the like, demand inspection of the manufacturing process and disclosure of the test records of the purchaser in order to recheck certain requirements, the supplier shall, upon request of the purchaser, concede to such authorities the same rights as these have with the purchaser and provide them with any support that can reasonably be expected.

8. Industrial property rights

8.1 The supplier is liable for claims which in the case of stipulated use of the goods supplied result from the infringement of industrial property rights and patent right registrations of which at least one out of the family of industrial property rights has been published either in the supplier's homeland, by the European Patent Office or in one of the countries Federal Republic of Germany, France, Great Britain, Austria or the United States of America.

8.2 The supplier exempts LEONI and his customers from all claims resulting from the use of such industrial property rights.

8.3 This is not applicable if the supplier has produced the goods supplied according to drawings, models or other descriptions and details placed at his disposal by LEONI and does not know or in connection with the goods developed by him does not have to know that by doing so he infringed industrial property rights.

8.4 The contractual parties commit themselves to inform each other immediately of infringement risks that become known and alleged cases of infringement and to fight such claims by common consent.

8.5 If requested by LEONI the supplier will inform about the use of published and unpublished own and licensed industrial property rights and patent applications related to the delivery item in writing.

9. Liability for defects

9.1 LEONI is obligated to check the goods/services for obvious deviations with regard to quality and quantity within an appropriate period. The notification of defects is in time, if it reaches the supplier within 10 working days from the dispatch of the goods/services. The application of § 377 HGB regarding non obvious deviations is excluded if the inspection of incoming goods has been replaced by a quality assurance agreement and LEONI has additionally compared the goods/services with the delivery note and checked them for transport damages.

9.2 The supplier guarantees that according to his knowledge his products/services are free from any third party rights and that their use in conformity with the contract by LEONI does not encroach upon any other party's property rights. Excluded thereof are goods and documents provided by LEONI.

9.3 Unless otherwise agreed a claim of the purchaser based on defects becomes statute-barred after two years from the date of supply/service according to item 4.6. As far as goods and services of the supplier are to be used in automobiles, claims of the purchaser will become statute-barred after 30 months from the day of the first registration of the vehicle, respectively from the day the spare parts were installed. §§ 478, 479 of the German Civil Code will be applied. If defects are found before the start of production (processing or installation) the supplier has a chance to remove the defect if this is not unreasonable for LEONI. If the supplier cannot remove the defect or is not able to do so immediately LEONI is entitled to terminate the contract without further notice and to return the goods at the supplier's risk. In urgent cases and in coordination with the supplier LEONI has the right to remove the defect itself or have it removed by a third party at the supplier's expense. The right to claim for damages remains unaffected. Should goods from more than three deliveries within one year be defective, LEONI is entitled to withdraw from further contracts that have not yet been performed and to claim damages for non-performance. The assertion of further claims remains unaffected.

9.4 The supplier supports LEONI free of charge in the defence against any claim from product and producer's liability and exempts LEONI from these as well as from all costs of defence against such claims.

9.5 Claims for damage by the supplier are excluded, except that LEONI is liable for damages resulting from injuries of someone's life, body or health or for any other damage caused by grossly negligent or intentional failure of duties of LEONI, its legal representatives or servants and which are typical of the contract and predictable or caused by malicious behaviour. However, LEONI is fully liable if damages occurred are covered by an insurance LEONI has taken out.

9.6 The supplier is liable for measures taken by LEONI to avert imminent damages (e.g. recall action) according to the quota of causation.

10. LEONI Social Charter

Permanent contracts are effective from the date of signature and are valid for one year unless otherwise agreed. Such contracts will continue for another year without a separate declaration, if none of the contracting parties notifies the other party in writing three months prior to the expiry of the contract. Also in these cases LEONI has the right to terminate the contract with three months' notice.

11. Contract duration and termination

11.1 Permanent contracts are effective from the date of signature and are valid for one year unless otherwise agreed. Such contracts will continue for another year without a separate declaration, if none of the contracting parties notifies the other party in writing three months prior to the expiry of the contract. Also in these cases LEONI has the right to terminate the contract with three months' notice.

11.2 The termination of the contract without notice for good cause remains unaffected. The announcement of insolvency proceedings on the supplier's assets or a delay in the supplier's payments of more than one month is, among others, considered as good cause by LEONI.

12. Place of performance, jurisdiction and choice of law

12.1 Only German law is applicable. Application of the UN Convention on the International Sale of Goods (CISG) is excluded, even if the supplier's registered office is abroad.

12.2 Place of performance, also for liabilities on bills of exchange, is the registered office of LEONI. Exclusive place of jurisdiction is Nuremberg, Germany. However, LEONI is entitled to assert a claim against the supplier at the supplier's registered office. Other agreements can be made for deliveries.

13. Miscellaneous

13.1 The transfer of the supplier's rights and duties resulting from the contract with LEONI requires LEONI's written approval in order to be valid.

13.2 Should the supplier stop payments or should insolvency proceedings on his assets or extra-judicial conciliation proceedings be instituted, LEONI is entitled to cancel the part of the contract that has not yet been fulfilled.

13.3 Should any provision of this contract become nil and void, the validity of the other provisions shall not be affected.