

General Terms and Conditions of Business (GTC) as of October 2014

1. General

- (1) The following General Terms and Conditions of Sale (GTC) apply to all contracts concluded with us, namely LAB LOGISTICS GROUP GmbH, Meckenheim. The buyer by placing the order is deemed to acknowledge the following Terms and Conditions. Terms and conditions of purchase of the buyer do not apply unless we have given our explicit written consent to their application.
- (2) Our GTC also apply if we make delivery without reservation even though we are aware of any conflicting terms and conditions of our contractual partner or of terms and conditions of our contractual partner that deviate from our GTC.

2. Placing of orders

Offers or orders which are communicated to us orally or by remote data transmission are only deemed to be legally binding for us if we have confirmed such offer or order in writing within two weeks from receipt (“Zugang”¹) of the offer; such confirmation may also consist in the delivery of the invoice. Any special arrangements, wishes or specifications that deviate from the usual product standards, standards of dispatch or any other applicable standards need to be repeated in each individual order.

Our offers/ quotations are always without engagement and subject to change unless explicitly stated otherwise therein.

3. Prices

- (1) Our prices are ex works or ex warehouse, exclusive of packaging, freight and other costs of dispatch and exclusive of the value-added tax valid at the time, which costs have to be paid on top. The prices stated in our catalogues are orientation prices exclusive of value-added tax. Only those prices are binding which are indicated in our order confirmation.
- (2) Invoicing is made in euros at the prices valid on the order date, plus the statutory value-added tax.

4. Delivery, passing of risk

- (1) Dispatch is made at the buyer’s risk. The risk passes to the buyer upon handover of the goods to the carrier. This also applies if we have agreed to bear the costs of transport or if we have advanced the costs of transport or in the case of partial deliveries. If dispatch or handover of the goods is delayed for reasons attributable to the customer, the risk is deemed to pass to the customer from the day when the goods are ready for dispatch and we have given notice of such readiness for dispatch to the customer.

¹ Note: An offer or order or other declaration is deemed received (“zugegangen”) in terms of German law if and as soon as it has come into the recipient’s area of control in the way that the recipient can reasonably be expected to take note of it.

- (2) Unless agreed otherwise, the place of delivery and the place of performance (“Erfüllungsort”) is Meckenheim. Unless agreed otherwise, delivery “ex works”, i.e. ex our establishment in Meckenheim, is deemed agreed upon. The mode and means of dispatch are agreed upon with the buyer. Additional costs incurred due to special requests of the buyer as regards the mode or means of dispatch are at the buyer’s expense.
- (3) The goods will only be insured at the buyer’s request.

5. Delivery times, partial delivery

- (1) All delivery times indicated by us in the offers or order confirmations are non-binding. In the event that the delivery is delayed or impeded by force majeure or other circumstances attributable to the buyer or a pre-supplier or sub-supplier, either the delivery time will be deemed extended by a reasonable period or we may withdraw from the contract.
- (2) We are entitled to make partial deliveries if and to the extent that these are reasonably acceptable for the customer in consideration of the customer’s interests.
- (3) If we are prevented from timely delivery due to force majeure, industrial action, riots, official regulatory measures, non-supply by pre-suppliers or sub-suppliers or other disturbances affecting our operations or the operations of our pre-suppliers or sub-suppliers which demonstrably have substantial impact or other unforeseeable, inevitable or serious events, the delivery time will be extended by a reasonable period. If, in such a case, delivery is rendered impossible, our obligation to deliver will lapse; in this case, the buyer is not entitled to claim damages. If the customer demonstrates that subsequent performance is of no interest to the customer because of the delay, the customer will be entitled to withdraw from the contract; in this case, any further claims of the customer will be excluded. If the impediment lasts longer than three months, either contracting party will be entitled to withdraw from the contract with regard to such part of the contract as has not yet been fulfilled. The parties are obliged to inform each other of any occurring force majeure event without undue delay (“unverzüglich”).
- (4) If we are in default (“Verzug”), the customer will be entitled to fix a reasonable grace period in writing and withdraw from the contract after such period has expired without result. The grace period is dispensable if we seriously and finally refuse to deliver or if the underlying transaction is concluded for delivery by a fixed date (“Fixgeschäft”) in terms of § 323 subs. 2 No. 2 BGB (German Civil Code) or § 376 HGB (German Commercial Code) or if special circumstances are given which, when balancing the mutual interests of the parties, justify immediate withdrawal.
- (5) If we are in default of delivery or performance or if delivery or performance is rendered impossible for any reason whatsoever, we will only be liable for damages as is provided for by sec. 8 of these General Terms and Conditions of delivery and performance.

6. Packaging

- (1) The goods are delivered with manufacturer packaging (if available) except for smaller quantities of goods from big packs already opened (“Anbruchware”). Any other packaging will be chosen by us with a view to the requirements to be met. Additional costs incurred as a result of special customer requests will be invoiced separately.
- (2) Packaging belonging to the customer will only be used if so agreed beforehand.
- (3) Packaging can only be returned to us as is provided for by the statutory provisions if so agreed beforehand.

7. Warranty

- (1) The customer’s rights in the case of a defect in quality or title (including wrong delivery (*aliud* delivery) and short delivery) are governed by the statutory provisions unless otherwise stipulated hereinafter. In any case, the special statutory provisions relating to the final delivery of goods to a consumer (§§ 478, 479 BGB – German Civil Code) remain unaffected.
- (2) If we are obliged to perform or manufacture on the basis of drawings, specifications, samples, requests etc. of the customer, the latter will bear the risk of the goods being fit and suitable for the intended use.
- (3) The warranty rights of the customer – provided the customer is a merchant (“Kaufmann”) – are subject to the customer having duly fulfilled his obligation to inspect the goods and give notice of defect, if any, as prescribed by § 377 HGB (German Commercial Code).
- (4) The customer is obliged, if so requested by us, to give us the opportunity to verify on site any defect complained about. If the customer or any third party makes unauthorized changes or unauthorized inappropriate repair to the goods on his own, the customer will not be entitled to warranty claims with regard to such changes or repair nor with regard to the consequences arising therefrom.
- (5) If the delivered goods or the manufactured work is defective, the customer will be entitled to the statutory rights as is provided for in the following:
 - (i) We are first of all entitled, at our choice, to either remedy the defect or deliver non-defective goods to the customer resp., in the case of a contract for work and services (“Werkvertrag”²), to manufacture a new work (subsequent performance – “Nacherfüllung”). The customer is obliged to grant us the opportunity and the time required for such purpose. We undertake to bear all costs and expenses required for the subsequent performance including but not limited to the costs of transport, tolls, the costs of labour and material. If we make substitute delivery or manufacture a new work, the customer will be obliged, upon our request, to return the defective goods to us. We are entitled to make the subsequent performance dependent on customer’s payment of the

² Under a “contract for work and services” (“Werkvertrag“) in terms of German law, the contractor undertakes to bring about a particular result (e.g. manufacture custom-made products, repair a car, ship goods to a certain destination etc.)

price agreed upon for the goods delivered. The customer is however entitled to withhold an adequate part of the price.

- (ii) If the subsequent performance fails, the customer is entitled, at his choice, either to withdraw from the contract or to claim reduction of the purchase price. There is however no right to withdraw from the contract in the case of a minor defect.
 - (iii) Claims of the customer for damages resp. reimbursement of futile expenses are subject to sec. 8.
- (6) In the case of a breach of duty other than a defect of the object of purchase or work, the customer is entitled to withdraw from the contract as is provided for by the statutory provisions.
- (7) The limitation periods are subject to sec. 9.

8. Exclusion and limitation of liability

We accept liability for damage caused by an injury of the life or limb or health which is due to an intentional or negligent breach of duty committed by us, our representatives, employees or vicarious agents or other persons engaged by us in the fulfilment of our obligations (“Erfüllungsgehilfen”). We are also liable for claims under the “Produkthaftungsgesetz“ (German Product Liability Act) as well as in the case that a defect is fraudulently concealed or we have given a guarantee for the quality of the goods to be delivered.

We accept liability for any damage other than that mentioned in the aforesaid cases that is caused by an intentional or grossly negligent breach of duty or, in the case of breach of fundamental contractual duties (“wesentliche Vertragspflichten”), by simple negligence committed by us, our representatives, employees or vicarious agents or other persons engaged by us in the fulfilment of our obligations (“Erfüllungsgehilfen”). In the case of breach of fundamental contractual duties caused by simple negligence, liability is however limited to the foreseeable damage which typically occurs with the contract in question. A contractual duty is deemed fundamental if its fulfilment is an indispensable condition for the proper execution of the contract and if the contractual partner, as a rule, is reasonably allowed to rely on the fulfilment of such duty.

We accept no liability for any breach of duties other than those mentioned in the aforesaid cases which is due to simple negligence.

The preceding provisions apply to all claims for damages including damages in addition to performance (“Schadensersatz neben der Leistung“) and damages in lieu of performance (“Schadensersatz statt der Leistung“), regardless of the legal basis, including but not limited to damages for defects, for breach of duties under the contractual relationship under the law of obligations or for claims in tort. They also apply to claims for reimbursement of futile expenses.

Liability under the special statutory provisions in the case of final delivery of the goods to a consumer (§§ 478, 479 BGB – German Civil Code) remains unaffected.

The preceding provisions do not imply any shifting of the burden of proof to the detriment of the customer.

9. Limitation

- (1) Notwithstanding § 438 subs. 1 No. 3 BGB (German Civil Code) and § 634a subs. 1 No. 1 and § 634a subs. 1 No. 3 BGB (German Civil Code), customer's claims for defects in quality or title become time barred after expiry of one year from the commencement of the limitation period as prescribed by law.
- (2) Any mandatory statute of limitation remains unaffected. Thus the easement of limitation stipulated in the preceding subsection (1) does not apply:
 - to third-party claims in rem for return/ surrender,
 - to claims for defects of goods which, according to the usual purpose of such goods, were used for a construction ("Bauwerk" in terms of German law) and have caused the defectiveness of the construction,
 - to claims arising from a guarantee assumed,
 - in the case of fraudulent concealment of a defect by the seller,
 - to claims based on intentional or grossly negligent conduct,
 - to recourse claims based on the provisions governing the sale of consumer goods
 - to claims based on an injury of the life or limb or health,
 - to claims for defects of a construction ("Bauwerk" in terms of German law) or a work or performance the result of which consists in planning or supervising services to be provided for it.
- (3) The limitation periods for claims for defects in quality or title as stipulated in the preceding subsections (1) and (2) apply correspondingly to concurrent contractual and non-contractual claims of the customer for damages which are based on a defect of the contract goods. If however, in the specific individual case in question, under the statutory limitation provisions, concurrent claims become time-barred at an earlier point in time, such concurrent claims are subject to the statutory limitation period. In any case, the statutory limitation periods under the "Produkthaftungsgesetz" (German Product Liability Act) remain unaffected.
- (4) If – under any of the provisions of the preceding subsections (1), (2) and (3) – the limitation period for any claims against us is reduced, such reduction applies correspondingly to customer claims, if any, against our legal representatives, employees, authorized agents, vicarious agents or other persons engaged by us in the fulfilment of our obligations ("Verrichtungs-/Erfüllungsgehilfen") that rely on the same legal basis.

10. Terms of payment

- (1) Payment obligations from the delivery of goods must be fulfilled within 10 days from delivery without deduction. If payment is made by way of remittance or by cheque, the payment obligation will only be deemed fulfilled if and as soon as the invoice amount has been credited to our bank account.

- (2) The customer is not entitled to withhold payments for counter-claims based on other contractual relationships, nor is the customer allowed to set such counter-claims off against our claims unless we have acknowledged the counter-claims or the counter-claims are undisputed by us or have been established by a final non-appealable court decisions (*res judicata*).

11. Order cancellation

Orders or individual items from an order can only be cancelled if we give our consent to such a cancellation. Any costs of cancellation incurred by us in the relationship with our pre-suppliers or sub-suppliers will be charged to the customer.

12. Return of goods

- (1) Except in the case of warranty claims or claims for damages of the customer, the latter is only entitled to return the goods received from us if we give our consent to such a return.
- (2) If the return of goods is permissible under the preceding subsection (1), the following applies: Only faultless resaleable goods in original packaging will be accepted by us and we will credit the customer for the corresponding amount after thorough inspection only. LAB LOGISTICS GROUP reserves the right to charge handling fees. If the goods need to be returned by us to the manufacturer, we will await whether and until we are properly credited by the manufacturer for the corresponding amount. Only after receipt and verification of the credit memo from the manufacturer, we will credit the customer for the appropriate amount.

13. Reservation of title

- (1) We reserve title to the goods delivered by us until the buyer has satisfied all outstanding debts from our mutual business relationship. If the buyer fails to satisfy the debts owing to us in full, the buyer will be obliged to return the goods to LAB LOGISTICS GROUP GmbH upon request.
- (2) The fact that we accept any goods returned to us must not be deemed to constitute our withdrawal from the contract. After the goods have been returned, we are entitled to sell or realize the goods otherwise. The proceeds from such sale or realization will be set off against the buyer's debts, less adequate costs of the sale or realization.
- (3) The buyer is entitled to resell the goods in the ordinary course of business. He assigns to us already now any and all claims against his own customers or third parties accruing to him from the resale. The amount of the claims assigned hereunder is limited to the total gross amount of the outstanding invoice issued to our customer. The buyer continues to be entitled, despite the assignment, to collect the claims from his customers or third parties. This is however without prejudice to our right to collect the claims ourselves. However, we undertake not to collect the claims ourselves as long as the buyer duly fulfils his payment obligations, is not in default of payment and, in particular, no petition in insolvency and no petition for the opening of composition proceedings has been filed against him and as long as the customer has not ceased payments. If any such case occurs, we are entitled to request the buyer to immediately

disclose to us all claims assigned hereunder as well as the identities of the appropriate debtors, to provide us with all information necessary for the collection of the claims, hand over to us the corresponding documents and notify his debtors or the third parties concerned that the claims in question have been assigned to us.

- (4) In the case of a seizure or attachment or other third-party interference regarding the goods which are subject to our reservation of title, the customer is obliged to inform us in writing without undue delay (“unverzüglich”) to enable us to bring an action under § 771 ZPO (German Code of Civil Procedure). If and to the extent that the interfering third party is unable to reimburse us for the judicial and extrajudicial costs incurred by us in connection with the assertion of our rights against such third party, the buyer will be liable for the loss incurred by us.
- (5) The buyer is obliged to treat the object of purchase carefully.

14. Data protection

We are entitled to process and store for our own purposes any and all relevant customer data in conformity with the applicable data protection law.

15. Place of performance (“Erfüllungsort”), place of jurisdiction, applicable law

- (1) As to our obligations, the place of performance (“Erfüllungsort”) is the registered office of the company in Meckenheim. The place of jurisdiction is Bonn. We are however entitled to also sue the buyer at the place of jurisdiction applicable to him.
- (2) The contractual relationship is governed by the law of the Federal Republic of Germany with the exception of UN Sales Law.

16. Invalidity of individual provisions/ severability, written form

- (1) Any arrangements that modify or amend the content of these General Terms and Conditions of Business or of individual provisions hereof must be in writing (“Schriftform” in terms of German law). This also applies to any change or amendment to, or waiver of this written form requirement.
- (2) If any individual provision hereof should be invalid, this will be without prejudice to the validity of the remaining provisions hereof. In this case, the invalid provision will be replaced by another provision which approximates the economic purpose of the invalid provision most closely.

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