

GENERAL TERMS AND CONDITIONS OF SALE of LEONI Kerpen GmbH (last updated 11/2014)

1. Area of application

- 1.1 These General Terms and Conditions of Sale apply to all agreements, contractual declarations, goods supplied and services performed by LEONI Kerpen GmbH (hereinafter "LEONI") unless expressly agreed otherwise. These General Terms and Conditions of Sale also apply to all future goods supplied, services performed or offers placed by LEONI, even if they are not agreed separately once again. These Conditions do not, however, apply vis-à-vis consumers as defined in Article 13 of the German Civil Code (BGB).
 - 1.2 The purchaser's general terms and conditions of business are not applicable, even if LEONI has in individual instances not specifically objected to their application. Even if we do refer to a document that contains or makes references to the purchaser's terms and conditions of business or those of a third party this does not constitute agreement to said terms and conditions being applicable. The same applies to delivery and payments.
- ## 2. Conclusion of contract / Delivery
- 2.1 Supply contracts (order placement and acceptance) must be concluded in writing. So far as understandings and agreements were reached in other form in individual cases, these must be confirmed in detail and in writing without delay. Orders must correspond with LEONI's offers or contain specific mention of any modification.
 - 2.2 Call-offs must be scheduled and accepted by the purchaser within six months of the conclusion of the agreement or order confirmation from LEONI, unless otherwise agreed. On expiry of the acceptance period or if the purchaser does not use an agreed call-off within six months following the placing of an order, LEONI shall be entitled, after the expiry of a grace period of two weeks, to demand immediate acceptance and payment of the goods, to withdraw from the contract or to demand damages due to non-fulfilment, at the option of LEONI.
 - 2.3 If circumstances emerge following the conclusion of the contract that justify doubts about the purchaser's creditworthiness, LEONI shall be entitled to determine an appropriate period during which the purchaser must either provide payment in concurrent performance against delivery or furnish collateral. Once this period has fruitlessly expired, LEONI shall be entitled to withdraw from the contract or demand advance payment. In the event of a withdrawal the purchaser shall not be entitled to any claims due to non-performance.
 - 2.4 The delivery periods stated determine roughly the time of delivery ex works following fulfilment of all production conditions, provided that no binding delivery periods were agreed. LEONI offers no guarantee of a specific transportation period.
 - 2.5 Adherence to agreed delivery periods presumes the timely performance of participation duties incumbent upon the purchaser (in particular, the receipt of all documents, plans, drawings, data, supplies of materials, required permits and approvals) to be supplied by the purchaser together with compliance with the agreed terms and conditions of payment and other obligations by the purchaser. If these conditions are not fulfilled on time, the deadlines shall be extended appropriately; this does not apply if LEONI is responsible for the delay.
 - 2.6 Acts of God, industrial disputes, unrest, official measures and other unforeseeable, inevitable and serious events (collectively "force majeure") absolve the contracting partners from their obligations for the duration of the disturbance and the scope of their effect. Force majeure relating to a LEONI supplier and any delays in delivery on the part of LEONI caused thereby are to be regarded as equivalent to immediate force majeure. This also applies if these events occur at a time when the contracting partner in question is already in arrears, unless the contracting partner has caused the preceding delay or default deliberately or through gross negligence. The contracting partners are obliged to provide the requisite information immediately within the scope of what is reasonable and to adapt their obligations to the changed circumstances according to the requirements of good faith. If delivery becomes impossible due to force majeure, LEONI's duty of delivery shall cease. In such cases the purchaser shall not be entitled to claim damages.
 - 2.7 If LEONI is in default with effecting delivery or performing other services or duties consistent with the respective agreed time schedules, LEONI shall be liable only for damages caused directly by delay which is to be considered as foreseeable in line with the customs of the trade. To the extent that LEONI does not act deliberately or grossly negligent, LEONI shall be liable only up to the amount of the order value of the relevant individual order. Liability for production downtime, lost profit and for all indirect damages caused by delay and for all other consequential damage or loss and pecuniary loss shall be excluded. This does not apply in cases of gross negligence or wrongful intent.
 - 2.8 If the purchaser is in default of acceptance, LEONI shall be entitled to charge the purchaser the storage costs incurred - starting one month after the advice of readiness for dispatch - but at least 0.5% of the invoice amount for every month commenced, up to a maximum of 5% of the agreed price for the goods with which the purchaser is delayed. The purchaser shall be entitled to prove that damage or decrease in value has not occurred or is less than the lump-sum. LEONI reserves the right to prove greater loss and to claim for it.
 - 2.9 All measures required to import the goods underlying the supply agreement into the purchaser's country, such as obtaining import licences and foreign exchange permits, shall be taken by the purchaser independently and in good time. Where the purchaser gains knowledge of circumstances that prevent an import, the purchaser shall inform LEONI thereof immediately. If the procurement of the requisite import documents is in doubt, LEONI shall be entitled to withdraw from the contract after setting a further two-week period.
 - 2.10 For shipments to European Union countries the purchaser shall be obliged to quote LEONI the purchaser's VAT number at the time the order is placed. If the purchaser fails to stipulate this number to LEONI or if the number is incorrect, LEONI shall be entitled to claim damages. The same applies if the purchaser fails to make available to LEONI the necessary confirmations of transportation and of the final destination (certificate

- of delivery) immediately following receipt of the goods. The defence of contributory negligence shall be excluded; in particular, LEONI shall not be obliged to check or have checked for accuracy a VAT number it has received.
- 2.11 For exports to countries outside the European Union the purchaser shall be obliged to make available to LEONI the proof required in accordance with applicable fiscal provisions immediately following delivery of the goods. If the purchaser fails to comply with this obligation, LEONI shall be entitled to claim damages.
 - 2.12 LEONI shall be authorised to part shipments and part performance provided that this is acceptable to the purchaser. Excess deliveries or short deliveries customary in the trade and totalling up to 10% of the contract amount are not considered a defect and must be accepted by the purchaser. Invoicing shall take place in accordance with the quantities actually delivered.
- ## 3. Prices and payment
- 3.1 All prices are based on the level of costs prevailing at the time the order is placed. If the agreed delivery takes place 4 months after the order is placed and if the cost of material, wages and other costs have increased by then, LEONI shall be entitled to levy appropriate charges to bring the original price quotation in line with the cost increases.
 - 3.2 Prices are EXW LEONI (Incoterms 2010) plus the applicable VAT. Unless otherwise agreed, packaging and freight costs shall be at the expense of the purchaser.
 - 3.3 Empties, particularly packaging such as spools, drums and barrels etc. ("empties") shall be invoiced separately and must be paid for by the purchaser at the same time as payment for the delivered goods is made. Ownership of the empties shall pass to the purchaser on full payment. The purchaser shall be entitled to return empties in perfect, clean and reusable condition to the supplying plant of LEONI within six months from the invoice date at the purchaser's own cost and risk. In this case the purchaser shall be reimbursed in full for the purchase price of the empties. LEONI does not accept return of disposable packaging.
 - 3.4 As far as the delivery according to LEONI's choice or according to an agreement between the contracting parties is done on cable reels in the property of Kabeltrommel GmbH & Co. KG, Troisdorf, Germany (KTG), the terms of KTG ("Bedingungen für die Überlassung von Kabel- und Seilspulen") shall apply to the surrender of these cable reels. These terms shall be sent to the purchaser on demand at any time.
 - 3.5 Tool costs shall be invoiced separately without the purchaser thereby acquiring any rights to the tools.
 - 3.6 Promises of discounts shall be subject to the proviso of all due amounts being settled. LEONI shall only accept bills of exchange as conditional payment subject to agreement. Any expenses shall be borne by the purchaser.
 - 3.7 The purchaser can only offset payments against counterclaims or withhold payments due to such counterclaims that have been either uncontested or finally and non-appealably established.
 - 3.8 Credit notes and reimbursements do not constitute acknowledgement of fault or acknowledgement of a legal obligation.
- ## 4. Terms of freight
- 4.1 Unless otherwise agreed, the risk shall generally pass to the purchaser once the goods leave the works or the purchaser has been notified that the goods are ready for dispatch. At the request and cost of the purchaser LEONI shall conclude insurance as demanded by the purchaser.
 - 4.2 The choice of the delivery route and means of transport shall be at the discretion of LEONI, there being no guarantee that the cheapest shipping method will be used. If the purchaser demands a different shipping method, the additional cost shall be borne by the purchaser.
 - 4.3 Delivery in accordance with clauses CIF, CIP or CFR (Incoterms 2010) shall take place only for goods whose value per single shipment is EUR 5,000 or more. Except in cases of agreed CIF or CIP delivery, the consignment will only be insured against transport damage at the request of the purchaser and at the purchaser's expense.
 - 4.4 In the event of shipment of goods by sea, consignments with a value of goods less than EUR 5,000 shall only be dispatched "FOB" (Incoterms 2010) German port. The same applies to part shipments, provided that they have been agreed with the purchaser. Consignments with a goods weight of less than 50 kg shall be dispatched only EXW (Incoterms 2010) regardless of the value of the goods.
 - 4.5 If unforeseen events occur, such as threat of war, the breakout of armed conflict, closure of shipping lanes and similar events of force majeure, LEONI shall be entitled to charge any increases in freight and insurance costs resulting from this to the purchaser.
- ## 5. Retention of title
- 5.1 The goods shall remain in the ownership of LEONI until all present and future claims from the business relationship with the purchaser have been fulfilled. The purchaser shall be obliged to store the goods separately. The retention of title shall cover the accepted balance, provided that LEONI books amounts receivable from the purchaser in current account (current account retention of title clause).
 - 5.2 The purchaser shall perform any processing for LEONI without this resulting in any obligations for LEONI. Any co-ownership shares accruing to the purchaser from the mixing together or combination of goods subject to retention of title shall be transferred by the purchaser to LEONI in advance on acceptance of the goods that are subject to retention of title. The purchaser shall hold the manufactured goods or aggregate assets in trust for LEONI.
 - 5.3 The purchaser can dispose of the goods subject to a retention of title and the items resulting from their processing only subject to retention of title and must not impair the retention of title of LEONI by any transactions in rem (e.g. conditional bill of sale or pledge). LEONI may revoke the purchaser's resale authorisation regarding the goods owned or co-owned by LEONI at any time and demand furnishing of collateral if the purchaser fails to meet his payment obligations in due form.

- 5.4 LEONI must be notified in writing and without delay of any actual or legal recourse by third parties to the goods subject to retention of title, any damage to or loss of these goods.
- 5.5 All claims accruing to the purchaser from the resale or for other legal reasons with regard to the goods subject to retention of title (including any balance demands from current account) shall be assigned by the purchaser to LEONI in advance. If the goods subject to retention of title are disposed of together with other items not belonging to LEONI or if they are included in works deliveries, the assignment shall only apply in the amount of the invoice value of the goods subject to retention of title. The purchaser shall be obliged revocably to collect the claims assigned to LEONI for LEONI's account in the purchaser's name. The collection authorisation may be revoked at any time if the purchaser fails to meet his payment obligations in due form.
- 5.6 Provided that the realisable value of this collateral exceeds the LEONI claims to be collateralised by more than 10%, LEONI shall release collateral at the demand of the purchaser at the option of LEONI.
- 6. Default**
- 6.1 The purchaser is in default if he fails to pay as agreed within 14 days of receipt of the invoice.
- 6.2 In the event of the purchaser being in default, the claims made against him by LEONI from the underlying legal transaction shall fall due for payment in cash immediately, regardless of bills of exchange accepted or deferred payment terms agreed.
- 6.3 The purchaser shall grant LEONI a right of lien to the material provided by the purchaser for the execution of the order and to the claims replacing it in order to secure all present and future claims from the business relationship with the purchaser. If the purchaser is in default or if credit has expired, LEONI shall be entitled to effect the sale of the pledged material at the market price quoted on the London Metal Exchange or, if not traded, at the average German market price on the day of overdue payment or credit expiry.
- 7. Warranty claims**
- 7.1 The purchaser shall examine the delivered goods immediately on receipt. Claims due to an obvious deficiency of the goods must be asserted by the purchaser within two weeks of their receipt. In the case of deliveries per sample or specimen, warranty claims - including claims for hidden defects - shall be excluded if the delivered goods correspond to the sample or specimen. To the extent that a deficiency is due to the material delivered by the purchaser, no warranty claims shall be permitted.
- 7.2 All warranty claims presuppose that the defect is reported to LEONI without delay once it has been established, before processing, either in writing or electronically, and that a specimen of the goods that are the subject of the complaint is sent. Damage in transit must be noted on the bill of lading and the delivery note and must be confirmed by the driver with a signature.
- 7.3 In the event of a defect as to quality or title within the period of limitation for warranty claims in accordance with 7.5 below, LEONI shall, at its own discretion, either restore the contractual status of the goods or provide a substitute to the contractual place of delivery free of cost and freight against return of the deficient goods. Any claims by the purchaser for the expenditure required for the purposes of subsequent performance to correct defects, particularly costs of transit, infrastructure costs, wage costs and cost of materials, shall be excluded where the expenditure increases because the goods were afterwards shipped to a place other than the contractual place of delivery. Replaced goods shall become the property of LEONI. Should the remedy of the defect or substitute delivery fail, the purchaser can withdraw from the single order contract in question or assert a reduction in payment. Further claims, particularly claims for consequential damage or loss, shall be excluded, unless in the case of (i) wrongful intent or gross negligence by the owner, executive officers or vicarious agents, (ii) injury to life, body or health, (iii) a breach of a contractual duty, the fulfilment of which in the first place enables due performance of the contract and the fulfilment of which the contracting partner can usually rely upon (cardinal duty), (iv) mandatory liability according to the product liability legislation or (v) guarantee of quality or durability within the meaning of Article 443 BGB having been issued. In the event of a slightly negligent violation of a cardinal duty, any claims for damages shall be limited to the foreseeable damage typically to be expected for this type of contract.
- 7.4 To the extent to which LEONI has issued a guarantee of quality or durability (Article 443 BGB) regarding the delivery or parts thereof, LEONI shall be liable within the scope of the guarantee. LEONI shall be liable for any loss or damage to the delivery that is based on the absence of the guaranteed characteristics or guaranteed durability and which does not occur directly at the delivered goods, but only if the risk of such loss or damage is manifestly covered by the guarantee.
- 7.5 All warranty claims by the purchaser shall become statute-barred on expiry of the period of limitation for warranty claims of 12 months from the date of delivery.
- 8. Property rights**
- 8.1 Unless otherwise agreed, LEONI shall be obliged to make delivery solely in the country where the place of delivery is located, free of industrial property rights and copyright of third parties (hereinafter "property rights"). Provided that a third party has asserted justified claims for the infringement of property rights against the purchaser as a result of deliveries that were made by LEONI and were used in accordance with the contract, LEONI shall be liable to the purchaser within the period stated in 7.5 above, as follows:
- 8.1.1 LEONI will, at its option and cost, obtain a right of use for the relevant deliveries, change them in such a way that the property right is not infringed or exchange them. If LEONI is not able to do this at appropriate conditions, the purchaser shall be entitled to exercise the statutory rights of withdrawal or to assert a reduction of payment.
- 8.1.2 LEONI's duty to pay damages shall be governed by 7.3 above.
- 8.1.3 The above-mentioned obligations of LEONI exist only to the extent that the purchaser informs LEONI in writing and without delay about the claims asserted by the third party, that the purchaser does not acknowledge an infringement and that all defensive measures and settlement negotiations are reserved to LEONI. If the purchaser discontinues use of the goods or services delivered in order to minimise damage, the purchaser shall be obliged to point out to the third party that discontinuation of use does not entail acknowledgement of an infringement of property rights.
- 8.2 Claims by the purchaser are excluded to the extent that the infringement of property rights has been caused by the purchaser.
- 8.3 Claims by the purchaser are furthermore excluded to the extent that the infringement of property rights has been caused by specific requirements stipulated by the purchaser, by use which could not be foreseen by LEONI or by the delivery being used by the purchaser in a different way or together with products not supplied by LEONI.
- 8.4 If property rights by third parties are infringed where deliveries are based on drawings or other information provided by the purchaser, the purchaser shall be obliged to exempt LEONI from all claims.
- 8.5 If other legal defects apply, the provisions of 7.3 above shall apply by analogy.
- 8.6 Any claims by the purchaser against LEONI and its vicarious agents that go beyond the claims provided for in this section 8 shall be excluded.
- 9. Social responsibility**
- 9.1 For LEONI it is of essential importance that social responsibility be taken into account in the context of supply relationships and in the course of commercial activity. This applies equally with regard to LEONI's own employees, employees of contracting partners and customers as well as society as a whole. Accordingly, LEONI has issued a Declaration on Social Rights and Industrial Relations at LEONI (LEONI Social Charter). Regardless of this, however, it must be the stated objective for LEONI and the purchaser to observe and act in accordance with the principles of the UN Global Compact (Davos, 01/99).
- 9.2 The following principles are particularly important: respect of human dignity and human rights, prohibition of child labour, prohibition of forced labour, prohibition of discrimination, observance of the freedom of association and of the pertinent national standards on remuneration, working hours as well as health and safety, protection of the environment and combating corruption.
- 9.3. Any serious violation or repeated violations by the purchaser of the principles set out in 9.2 above shall make it impossible for LEONI to continue the supply relationship. In such a case, LEONI shall be entitled to terminate both individual contracts and master agreements with the purchaser without notice for serious reason.
- 10. Confidentiality**
- The purchaser undertakes to treat as trade secrets (i) all commercial and technical information that is not in the public domain and (ii) other information marked as "confidential" or bearing a note to that effect or (iii) information that is to be viewed as confidential depending on the circumstances (hereinafter "confidential information") of which the purchaser becomes aware as a result of the business relationship with LEONI. The purchaser shall be obliged not to pass on confidential information to third parties without prior consent from LEONI and to protect this information from unauthorised access by third parties. The obligations under the present section 10 shall also apply beyond the termination of the contract. The purchaser shall also oblige his employees accordingly.
- 11. Place of performance, place of jurisdiction, arbitration**
- 11.1 The place of performance, including for liabilities from bills of exchange, shall be the registered office of LEONI.
- 11.2 The exclusive place of jurisdiction for all legal disputes arising of or from the contents of the supply contract, its creation and effectiveness, including summary action based on bills of exchange and cheques, shall be LEONI's registered office. However, at its sole discretion LEONI shall be entitled to assert claims against the purchaser at the purchaser's place of business.
- 11.3 LEONI shall be entitled to assert claims against the purchaser not only at ordinary courts but also before an arbitration tribunal to be formed at the competent place of jurisdiction in accordance with the Conciliation and Arbitration Rules of the International Chamber of Commerce. The number of arbitrators shall be three. Each party shall be entitled to nominate one arbitrator. The third arbitrator, who chairs the arbitration tribunal and who must be a fully qualified lawyer, shall be nominated by the two other arbitrators. The language of the tribunal of arbitration shall be German. German law shall be the applicable substantive law. The verdict of the arbitration tribunal shall be final and binding on the parties.
- 12. Choice of law**
- The law of the Federal Republic of Germany shall apply exclusively. Application of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) shall be excluded. Furthermore, German law shall also apply to any present or future obligations covered by Regulation (EC) No. 864/2007 on the law applicable to non-contractual obligation ("Rome II").
- 13. Miscellaneous**
- 13.1 Assignments of any of the purchaser's rights and duties under the contract concluded with LEONI shall require the written consent of LEONI to be valid. This does not apply in matters relating to claims for payments.
- 13.2 If one of the provisions of these Terms and Conditions and of additional agreements reached is or becomes null or void, this shall not affect the validity of the other provisions and the contract.