

General Terms and Conditions of Sale and Delivery of LMT Tool Systems GmbH & Co. KG
(dated December 2017)

1. Conclusion of contract and content

1.1 These General Terms and Conditions of Sale and Delivery shall apply exclusively to all contracts for deliveries and other services. We will not acknowledge the customer's terms and conditions of purchase even if we do not expressly state that we will not accept them or if we supply to the customer without reservation.

1.2 Any agreements concluded between us and the customer for the purpose of implementing this contract are recorded in writing in this contract. Amendments or additions made by our employees are subject to written confirmation by our management and apply only to the respective transaction for which they are made.

1.3 Our General Terms and Conditions of Sale and Delivery shall apply only to entrepreneurs as defined in § 310 (1) German Civil Code (*BGB*).

2. Offers

2.1 Unless otherwise agreed in writing our offers are not binding. A contract only comes into effect if we send written confirmation or execute delivery within 14 days after receipt of the order or after receipt of the delivery call-off.

2.2 Where our products are presented in our webshop under [www.shop.lmt-tools.de] (hereinafter "Webshop") this does not constitute a binding offer for sale on our part. An offer does not come about until the customer has placed the item(s) in the shopping cart and sent off the order by clicking on the [binding order] button. We will provide confirmation that we have received the customer's order without undue delay by email (hereinafter "Email Confirmation"). This Email Confirmation does not constitute binding acceptance of the order. A contract does not come about until we have sent a confirmation of order by email or dispatched the goods ordered.

2.3 Samples and brochures serve only as reference material and do not place us under an obligation even if an order is placed with reference to the samples and brochures.

Any data, drawings, illustrations, technical data, weights, dimensions and performance specifications contained in our printed matter or offer documents are approximations only and do not constitute contractual characteristics of the goods unless they have been expressly designated as binding in the order confirmation.

2.4 We reserve title and copyright in all illustrations, drawings, sketches and other documents; these may not be made accessible to third parties without our consent and must be returned without undue delay on request. The customer accepts full responsibility, including responsibility for any third-party rights, for the documents, such as drawings, doctrines, devices, samples or the like, which are provided by the customer.

2.5 We reserve the right to make minor and customary changes to the goods. We are also entitled to change the goods if this is necessary for technical reasons and if the customer can be reasonably expected to accept such changes.

3. Delivery

3.1 Due and prompt delivery by us is contingent upon our having been supplied duly and promptly by our own supplier.

3.2 Any delivery times stated are approximations only. Agreed delivery dates and times begin on the date of our confirmation of order and presuppose that the customer has fulfilled all its obligations duly and promptly.

3.3 The date on which the goods are shipped ex works or warehouse shall determine whether we have complied with delivery dates and times. These shall be deemed to have been met if the goods cannot be shipped on time for reasons for which we are not responsible.

3.4 Delivery dates will be extended in as far as the principal is in default with his obligations towards us. In the event of force majeure or unforeseen occurrences which are outside our influence, the agreed times shall be extended accordingly; this also applies if additional information is provided or must be obtained in respect of execution of the contract.

3.5 If shipment is agreed subject to call off request we have the right to ship and to invoice the finished goods after 12 months at the latest even if the customer has not sent a call off request. If the customer defers shipment we will charge the customer the costs associated with storage as of one month after notice that the goods are ready for shipment, but at least 0.5% of the invoice amount for each month calculated unless the customer proves that no costs were incurred or that any costs incurred were lower. Provided that we have set a reasonable extension period which has elapsed without result, we also have the right to withdraw from the contract, to otherwise dispose of the goods or to supply the customer after an appropriately extended delivery period.

3.6 Part deliveries are permissible in as far as this can be reasonably expected of the customer. Over-or under deliveries of up to 10% are permissible.

3.7 In the event of default and in addition to delivery, the customer may demand reimbursement of any loss incurred owing to the delay. However, provided we have not acted with intent or gross negligence, this claim is restricted to 0.5 % of the value of the shipment concerned per week of default and to a maximum of 5 % of the value of the shipment concerned. This does not affect the customer's right to withdraw from the contract and/or to assert compensation owing to non-fulfilment pursuant to clause no. 8 once a reasonable subsequent deadline has expired. This applies accordingly to a fixed transaction or if the customer is no longer interested.

4. Prices and payments, minimum orders

4.1 Prices are in Euros ex works plus value-added tax at the statutory rate, excluding packaging.

4.2 We reserve the right to amend our prices accordingly if, once the contract has been concluded, costs increase or decrease, in particular owing to the conclusion of tariff agreements, changes in the price of materials, provided shipment is not scheduled to take place within two months. We will provide evidence of such changes to the customer on request.

4.3 Unless otherwise stated in the order confirmation, the purchase price shall be payable net (without deductions) within 30 days of the invoice date. The statutory regulations on default on payment apply.

4.4. The customer may not exercise any right of set-off unless its counterclaims have been affirmed in a court judgment, are not disputed or have been acknowledged by us. Subject to the same conditions the customer may only exercise a right of retention in as far as its counterclaim arises from the same contractual relationship.

4.5 Cheques and bills of exchange will only be accepted as payment subject to express prior agreement. Bills of exchange or cheques are only accepted on account of performance.

4.6 If we subsequently become aware of circumstances indicating a material deterioration in the financial circumstances of the customer which suggest that our claim for payment is at risk, we can declare such claim to be due for payment irrespective of the term of the bill of exchange received, revoke the direct debit authorisation pursuant to 6.5 and demand advance payments for shipments not yet carried out if the principal has not provided security in the amount of the claim which is at risk.

4.7 Please note that we apply an additional processing charge of EUR 10.00 for orders below a total net value of EUR 150.00. The minimum purchase quantity for reversible cutting plates for milling and turning is 10 units. The minimum order quantity is 5 units for cutting plates for die and moulding making with a plate size of at least 20.

4.8 Under normal circumstances tools may not be returned. If, in an individual case, we agree to catalogue goods being returned, the customer must quote the delivery note or the invoice number with the return shipment, which must be made at the customers cost and risk. Where we agree to accept goods returned, we will apply a re-warehousing charge of 20% of the gross merchandise value, the minimum re-warehousing charge shall be EUR 30.00. The re-warehousing costs will be applied automatically by way of a credit note.

5. Delivery and passage of risk

5.1 Unless otherwise agreed, shipment shall be EXW (INCOTERMS 2010) from our works.

5.2 Where, in an individual case, we arrange transportation, the principal shall notify the freight carrier or other entity instructed to carry out the transportation in writing without undue delay if the shipment is incomplete or if there are any external signs of transport damage. This must either be done by entering an endorsement on the bill of lading or on the delivery note, and by having this signed by the driver of the delivery vehicle; alternatively, a damage report shall be recorded. Notwithstanding the statutory obligations to inspect the goods and report any defects, any transport damage which is not outwardly apparent must be reported in writing to the freight carrier or other person instructed to carry out the transport (e.g. by fax, letter or email) within seven days of delivery. We must be informed of any such report.

5.3 If the goods are not called off in accordance with the contract and after the expiry of a reasonable extension of the original term, we have the right to invoice it as being delivered.

5.4 Packaging can be returned to our works during normal working hours. Packaging shall be returned empty, free of foreign matter and contamination and separated according to type of packaging. If the above-mentioned duties are not fulfilled we may charge the customer for any additional costs incurred for cleaning and sorting.

6. Reservation of title

6.1 We shall retain title in the goods until all payments arising from the entire business relationship have been received. In the event of a current account, retention of title shall serve as security for amounts due to us.

6.2 If the customer acts in breach of the contract, in particular in the event of default with payment, we shall be entitled to rescind from the purchase agreement pursuant to the statutory provisions and repossess the goods.

6.3 The customer shall treat the goods with care; in particular it shall insure it sufficiently against fire, water and theft at replacement value at its own cost. If maintenance and inspection work are necessary the customer must carry these out in good time at its own cost.

6.4 In the event of seizures or other interventions by third parties, the customer shall notify us without delay to enable us to initiate legal actions pursuant to §771 of the German Code of Civil Procedure. If the third party is unable to reimburse the costs incurred in or out of court of a claim pursuant to § 771 of the German Code of Civil Procedure, the customer is liable for our loss.

6.5 The customer may re-sell the goods in the ordinary course of business; the customer shall however retain title in the goods vis-à-vis its customers. The customer hereby assigns to us all receivables, in the amount of the final invoice amount (including VAT) of our claim, owed to the customer by its customers or third parties based on the resale, irrespective of whether the goods to be supplied was resold without being processed or after being processed; we hereby accept such assignment. The customer shall still be authorised to collect such receivables after this assignment. This shall not affect our right to collect the claim ourselves. However, we undertake not to collect the claim as long as the customer meets its payment obligations, does not fall into default with payment and, in particular, as long as no application for the commencement of composition, bankruptcy or insolvency proceedings has been filed and payments have not been stopped. However, if this is the case, we may demand that the customer informs us of the claims assigned and their debtors, gives us all the information and all the data required to collect the claims and to inform the debtors about the assignment.

6.6 Any processing of or alteration to the goods carried out by the customer shall always be carried out for us. If, as a result of processing, the goods are combined with other items which do not belong to us, we shall acquire pro-rata co-ownership in the new item commensurate with the ratio of the value of the goods supplied (final invoice amount including VAT) to that of the other processed items at the time of processing; the customer hereby transfers this co-ownership to us, and we accept this transfer and assignment. The customer shall also hold the new item created by processing in custody on our behalf. The same terms shall apply to the item which is created through processing as those applicable to goods which have been supplied.

6.7 If the goods are combined irreversibly with items which do not belong to us we are entitled to co-ownership in the new item in the ratio of the value of the goods (final invoice amount including VAT) to the other processed goods at the time of the processing. If the mixing process takes place in such a way that the customer's item must be regarded as the principal item then the customer hereby already transfers pro rata co ownership to us; we hereby accept this transfer and assignment. The customer shall hold the sole property or co-property which has been thus created in custody on our behalf free of charge.

6.8 We undertake to release the security to which we are entitled at the request of the customer to the extent that the realisable value of our security exceeds the claims to be secured by more than 10 %; we shall select the securities to be released.

7. Liability for defects

7.1 Unless otherwise agreed, the contractually owed quality of the goods shall be set out exclusively in our product specifications which are valid when the contract was concluded.

7.2 For the customer to have any rights arising from defects, the customer must have duly fulfilled its obligations to inspect and object pursuant to § 377 German Commercial Code.

7.3 If there is a defect, we are entitled, at our choice, to remedy the defect or to deliver replacement goods which are free from defects (subsequent performance).

7.4 If subsequent performance is unsuccessful, does not take place within a reasonable deadline set by the customer, is refused by us in a manner which is unjustified or if the customer cannot be reasonably expected to accept subsequent performance, the customer may demand – at its choice – reduction in remuneration (reduction) or rescission of agreement (rescission). If a breach of contract is only minor, in particular, if the defects are only minor, the customer will not have any right of rescission.

7.5 The customer may only claim for damages in accordance with mandatory statutory provisions and the following provision in 8.

7.6. All claims for defects with the exception of any claims in accordance with 8 shall become statute-barred after expiry of 12 months after the delivery unless we have fraudulently concealed the defect or have assumed a warranty for the quality of the goods. This shall have no effect on the limitation period in the event of supplier's recourse pursuant to §§478, 479 of the German Civil Code.

8. Liability

8.1 We shall be liable in accordance with statutory provisions insofar as the customer makes claims for damages that are based on intent or gross negligence including intent or gross negligence on the part of our representatives or vicarious agents. In case of negligence we are liable up the amount of the relevant purchase order. .

8.2 We shall also be liable in the event of negligent injury to life, limb and health caused by us, our legal representatives or vicarious agents and in the event of wilful failure to disclose a defect or in cases of the assumption of a guarantee. In the latter case the extent of liability is based on the wording of the guarantee.

8.3 We shall also be liable in instances of mandatory statutory liability, for example, under the German Product Liability Act (*Produkthaftungsgesetz*).

8.5 Unless otherwise expressly stipulated, the liability, especially for indirect damages, is excluded irrespective of the legal grounds.

8.6 The customer shall notify and consult us comprehensively and without undue delay if it intends to seek legal recourse in accordance with the aforementioned provisions. The customer shall provide us with an opportunity to examine the claim.

8.7 To the extent that our liability for damages is excluded or limited, this also applies to the personal liability of our employees, workers, staff, representatives and vicarious agents.

9. Place of Performance, Jurisdiction, Applicable Law

9.1 Place of performance for both parties shall be Aalen, Germany. Place of jurisdiction, also for all claims concerning cheques and bills of exchange shall be the location of our registered office. However, we are also entitled to file claims at the registered office of the customer.

9.2 All legal relationships between us and the customer shall be subject to the the law of the Federal Republic of Germany excluding the United Nations Convention on Contracts for International Sale of Goods (CISG).

9.3 The customer shall be informed that personal data may be stored and processed by us and our affiliated companies pursuant to to the regulations of the German Data Protection Act (BDSG). Furthermore, we are entitled on the basis of the German Data Protection Act to enter selected debtor's data into attached data pools to check creditworthiness.

10. Severability clause

If individual terms of the contract with the customer, including these general terms and conditions, should be or become invalid in whole or in part, this shall not affect the validity of the other provisions. The parties shall enter into negotiations in good faith with the aim of replacing the invalid provision with a valid provision which reflects as closely as possible the economic purpose intended by the invalid provisions.