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Datum / Date

Kontakt / Contact

01/2018

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# General Terms and Conditions of Purchase LEUCO Ledermann GmbH & Co. KG

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## § 1. General, scope

1.1. These General Terms and Conditions of Purchase of LEUCO Ledermann GmbH & Co.KG (hereinafter referred to as "LEUCO") shall apply exclusively. LEUCO shall not recognise contradictory or divergent terms and conditions of sale or general terms and conditions of business of the supplier; such are hereby rejected. LEUCO's General Terms and Conditions of Purchase shall also apply to all future transactions, even if this is not expressly reconfirmed in each individual case.

These General Terms and Conditions of Purchase shall still apply if LEUCO accepts or pays for a delivery without reservation in knowledge of terms and conditions of the supplier that contradict or deviate from LEUCO's General Terms and Conditions of Purchase.

1.2 All agreements made between LEUCO and the supplier regarding implementation of contracts must be recorded in writing in this contract. Verbal ancillary agreements require express confirmation in writing in order to be effective.

1.3 These General Terms and Conditions of Purchase shall exclusively apply vis-à-vis entrepreneurs within the meaning of Section 310 Para. 4 German Civil Code (Bürgerliches Gesetzbuch, BGB).

## § 2. Order and Order Confirmation

2.1 Orders placed shall only be legally effective if placed in writing. For the written form, an order by remote data transmission (e.g. via email, portal, SAP, interface, EDI) is also sufficient. Orders placed orally or by telephone will only become valid by written confirmation. Should the supplier fail to reject the order within 3 days the order will be regarded as accepted. LEUCO may withdraw from the order, if the supplier fails to confirm the order in writing within 5 days (order confirmation).

2.2 If the order confirmation deviates from the order, LEUCO is only bound if LEUCO has accepted the deviation in text form; apart from that, order confirmations are objected if they deviate from LEUCO's order. In particular, LEUCO is bound to the supplier's general terms and conditions only to the extent that they are in conformity with the terms of LEUCO or LEUCO expressly agreed to them in writing. The acceptances of deliveries and services as well as payments do not imply consent.

2.3 Orders will only be placed by the purchasing department / disposition / work preparation of LEUCO.

2.4 In offers, all deviations from specifications set out in LEUCO's requests with regard to quantity or quality must be clearly marked as such in quotations.

2.5 LEUCO is entitled to terminate an order at any time, in whole or in part, even without giving reasons. In the event of a (partial) termination, the supplier received the proportional remuneration for the expenses that have been demonstrably incurred until then and which the supplier cannot otherwise exploit. Beyond that, no further payments from LEUCO are to be made, in particular, the supplier is not entitled to lost profit. If the supplier has to present the reasons for termination, he shall be responsible for all disadvantages incurred by LEUCO resulting from such termination. LEUCO has the right to accept any goods or productions results resulting from this offer.

## § 3. Delivery dates

3.1 The delivery dates in the form of fixed dates specified in the order or a delivery schedule are binding. Decisive for the observance of the delivery dates is the receipt of the goods at LEUCO or the receiving station determined by LEUCO.

3.2 Delivery dates cannot be unilaterally modified by the supplier without the prior written consent of the purchasing department or disposition of LEUCO. By sending the order confirmation, the supplier guarantees these to LEUCO as a fixed date.

3.3 If intermediate dates are postponed by written agreement, this does not entail the automatic postponement of the final date.

3.4 The supplier shall notify LEUCO in writing without delay, stating the reasons and the expected duration, if circumstances occur or become apparent which indicate that the agreed delivery time cannot be met. The unconditional acceptance of the delayed delivery by LEUCO does not exempt the supplier from the rights of LEUCO due to the delayed delivery.

3.5 In the event of delayed delivery, LEUCO shall be entitled to demand lump-sum damages for default amounting to 0.5% of the order price per full week, but not more than 4% in total, or after expiry of a reasonable grace period set by LEUCO, by a third party for performance not yet provided by the Supplier at the expense of the supplier. Further legal claims remain reserved. In particular, LEUCO shall be entitled to demand compensation instead of performance after the fruitless expiry of a reasonable grace period, whereby the lump sum compensation shall be deducted. The supplier is free to prove that LEUCO suffered no or less damage as a result of its delay.

3.6 LEUCO is entitled to call quantities ordered in partial quantities up to 4 weeks before a delivery date. LEUCO may designate a later delivery date for the delivery of the remaining delivery quantity which has not been accepted in the case of a partial call for the original delivery date. In the case of partial call-offs, the interests of the supplier must be adequately considered.

3.7 The weights, quantities and dimensions determined in the incoming goods inspection at LEUCO are relevant for LEUCO for invoice settlement.

3.8 The unconditional acceptance of the delayed delivery or service does not constitute a waiver of the claims for compensation by LEUCO.

3.9 If labor disputes, involuntary breakdowns, riots, government action or other unavoidable events (force majeure) not only of insignificant duration result in a significant reduction in the needs of LEUCO, LEUCO shall be entitled, in whole or in part, without prejudice to its other rights to withdraw from the contract.

## § 4. Delivery and Transfer of Risk

4.1 Unless stipulated otherwise in the respective orders, deliveries shall be made in accordance with DDP Horb or the agreed-upon receiving agency (Incoterms 2014).

4.2 In case of deliveries with installation and assembly and with achievements the risk will be transferred with the acceptance, on delivery without installation or assembly, with the receipt at the point of receipt specified by LEUCO.

4.3 The goods must be packed in a manner that is appropriate and professional, so that damage, soiling or changes during transport are excluded. Approval of packaging by LEUCO does not relieve the supplier of its responsibility for the regularity of the transport.

4.4 Unless otherwise agreed, the shipping and packaging costs shall be borne by the supplier. In the case of pricing ex works or from the supplier's sales depot, the lowest cost shall be dispatched at all times insofar as LEUCO has not specified a specific mode of transport. Additional costs due to a non-compliance with the shipping instructions shall be borne by the supplier. LEUCO can also determine the mode of transport for the pricing of free consignees. Additional costs for an expedited transport which is necessary to comply with a delivery date shall be borne by the supplier.

4.5 Each delivery must be accompanied by packing slips or delivery notes stating the contents and the complete order reference.

4.6 LEUCO is obliged to inspect the goods for obvious defects and transport damage within seven working days upon receipt of the goods. A further entrance examination is not owed. Detected defects must be reported immediately. A period of notice of seven working days is in any case to be regarded as immediate.

4.7 Acceptance, also by third parties commissioned by LEUCO, is always subject to the reservation all rights, in particular resulting from defective or delayed delivery. If the acceptance is prevented or considerably impeded by circumstances beyond the control of LEUCO, LEUCO shall be entitled to postpone the acceptance for the duration of these circumstances. If this happens for a period of more than four weeks, the supplier is entitled to withdraw from the contract; further claims of the supplier are excluded.

4.8 Returnable transport packaging, outer packaging or reusable packaging shall either be taken back by the supplier immediately upon delivery or, if this is not required, shall be picked up immediately from the place of delivery at its own expense.

## § 5. Prices, invoices

5.1 Invoices must indicate the order numbers and the number of each individual item. As long as this information is missing, invoices are not payable. Bills are to be marked as duplicates.

5.2 Unless otherwise specified, the agreed prices are net plus statutory value added tax.

5.3 The supplier will not grant LEUCO less favorable prices and conditions than other customers supplied by him under the same conditions.

5.4 Assignment of claims is only permitted with the written consent of LEUCO.

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## § 6. Payments

6.1 Payments shall be effected with a deduction of 2% within 14 working days, or net within 60 working days.

6.2 The payment period starts as soon as the delivery or service has been completed and the invoice has been duly issued. Insofar as the supplier has to provide test samples, test reports, quality documents or other documents, the completeness of the delivery and service also presupposes the receipt of these documents. Discount deduction is also allowed if LEUCO expects or withholds reasonable payments due to defects; the term of payment begins after complete removal of the defects.

6.3 Payments are made subject to the result of the goods and quantity check at LEUCO. A payment before expiry of the examination and notification periods specified in Section 6 does not mean that LEUCO has checked the goods or quantities supplied by the supplier, has waived the complaint of quality or quantity deviations or has approved the delivery. Sums overpaid due to quality or quantity deviations have to be reimbursed by the supplier.

6.4 Advance payments from LEUCO shall be insured by LEUCO at the request of LEUCO by providing a down payment guarantee.

## § 7. Liability for defects

7.1 The supplier warrants that its services comply with the recognized rules of technology, all relevant standards and the contractually agreed conditions as well as the relevant safety regulations, which have guaranteed properties and are otherwise free of defects and defects of title. 7.2 If the supplier is not the manufacturer of the goods to be delivered by him, he will inspect the goods completely for material defects and defects of title prior to delivery.

7.2 If the supplier is not the manufacturer of the goods he shall inspect such goods for any quality defects or defects of title before supplying the goods.

7.3 The statutory claims due to material and legal defects are attributable to LEUCO in their entirety. Irrespective of this, LEUCO shall be entitled to claim from the supplier at LEUCO's choice remedy of defects or substitute delivery insofar as the supplier cannot refuse the type of supplementary performance chosen by LEUCO pursuant to Sec. 439 para. 2 German Civil Code (BGB).

7.4 If the supplier does not begin remedying the defect within a reasonable period set by LEUCO, LEUCO shall be entitled in urgent cases to carry out the necessary measures itself or to have them carried out by third parties at the supplier's costs and after hearing the supplier.

7.5 The period of limitation for claims for defects is, except in cases of malice, 36 months, calculated from the transfer of risk. Any longer statutory periods of limitation according to Sec. 438, 479 and 634 a German Civil Code (BGB) shall apply to LEUCO in full.

7.6 In the case of defects of title, the supplier additionally releases LEUCO from any claims of third parties.

7.7 Should LEUCO incur transport, travel, labor, material costs or costs beyond the normal scope of incoming inspection due to the supplier's defective performance or delivery, he shall reimburse them. The same applies to all expenses that LEUCO has to bear in relation to its customer because of its subsequent performance claims.

7.8 If LEUCO takes back goods manufactured and / or sold by it as a result of the supplier's defective performance or delivery, or if the purchase price demanded by LEUCO is reduced or LEUCO is therefore exposed to other claims for defects, LEUCO is entitled to take the supplier in regress without the otherwise necessary setting of a deadline.

7.9 The supplier shall carry out a quality assurance that is appropriate in terms of type and scope and in accordance with the latest state of the art and prove that to LEUCO at any time upon request.

## § 8. Product liability, recall, indemnification, product liability insurance

8.1 Where the supplier is responsible for a fault or product defect, he undertakes to indemnify LEUCO from claims for compensation from third parties upon first request, to the extent that the cause lies within his control, the fault can be attributed to him or he himself has unlimited liability vis-à-vis third parties.

8.2 Within the scope of supplier liability for loss events within the meaning of Para. (1), he shall also be obligated to reimburse all expenses arising from or in the context of a recall conducted by LEUCO. Wherever possible and reasonable, LEUCO shall inform the supplier of the content and scope of the recall measures to be implemented and give the supplier an opportunity to comment.

Other statutory claims that LEUCO is entitled to shall not be affected.

8.3 Para. (1) and (2) apply accordingly, as far as product defects are due to supplies or services of suppliers or subcontractors of the supplier.

8.4. The supplier undertakes to maintain product liability insurance with a lump sum insured of EUR 5 mil. per personal injury/case of damage to property; should LEUCO be entitled to further claims for compensation, these shall not be affected.

## § 9. Transfer of orders to third parties

The transfer of orders to third parties without the written consent of LEUCO is inadmissible and entitles LEUCO to withdraw from the contract in whole or in part and to demand compensation for damages.

## § 10. Proprietary rights

The Supplier warrants that no rights of third parties are violated in connection with its deliveries and services. If a third party makes a claim on LEUCO due to an infringement of its rights by the supplier's supplies and services, the supplier must indemnify LEUCO upon first written request.

## § 11. Certificate of origin

The supplier shall promptly provide LEUCO with all required certificates of origin (such as supplier's declarations, movement certificates within the meaning of the EEC or EFTA origin regulations) with all necessary information and signatures.

## § 12. Environmental regulations

The supplier undertakes to comply with all relevant environmental regulations and will provide LEUCO with a list of its products from the order on request.

## § 13. Provisions

13.1 Provision of materials, tools, samples and other objects or documents handed over for production shall remain the property of LEUCO and shall be stored, designated and managed separately and free of charge. Their use is only permitted for orders from LEUCO. In case of impairment or the supplier is obliged to make a replacement. This also applies to the calculated transfer of order-based material.

13.2 Processing or remodelling of the material or assembly of parts is expressly for LEUCO. LEUCO becomes the immediate owner of the new or transformed item. If this is not possible for legal reasons, LEUCO and the supplier agree that LEUCO will become the owner of the new product at any time during processing or transformation. The supplier shall store the new item free of charge for LEUCO with the due care of a prudent businessman.

## § 14. Tools

14.1 Tools paid by LEUCO are the sole property of LEUCO and may be used by the Partner only for the orders and parts of LEUCO. Tools paid for by LEUCO shall be available to LEUCO in perfect condition at all times. The Partner shall clearly label LEUCO's property as such and store it separately.

14.2 The Partner undertakes to insure tools owned by LEUCO and stored by the Partner against property damage at his own expense. The Partner hereby cedes all claims for compensation under this insurance to LEUCO.

14.3 Parts manufactured using tools owned by LEUCO must not be offered or supplied to third parties, and the applicable expertise must not be passed on.

14.4 The Partner shall be exclusively responsible for maintenance and servicing of the tools at his expense. The Partner shall be solely responsible for the costs of subsequent tools. As such, output is unlimited.

14.5 Any changes to tools must be approved by LEUCO in writing. After each change, samples must be submitted to LEUCO for inspection and approval.

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14.6 The payment of the tool costs by LEUCO takes place only after examination and release of a first sample delivery.

### § 15. Safety standards

The delivery item must comply with the applicable safety standards. The respective declarations of conformity and manufacturer are to be attached to the delivery without being requested.

### § 16. Secrecy

16.1 Without LEUCO's written consent, the supplier undertakes not to pass on tools, forms, prototypes, models, profiles, drawings, norm sheets, print templates and doctrines provided by LEUCO or use them for purposes other than specified in the agreement. They must be secured against unauthorized inspection or use. Subject to further rights, LEUCO may demand their surrender if the Supplier violates these obligations.

16.2 The supplier shall not make information obtained by LEUCO accessible to third parties and shall treat them confidential unless they are publicly known or otherwise legitimately known to him.

### § 17. Advertising

The supplier is forbidden to use requests, orders or correspondence of any kind from LEUCO for his advertising purposes. Advertising using the business relationship with LEUCO shall only be permitted with prior, express consent from the same.

### § 18. Export control and customs

18.1 The supplier is obliged to inform LEUCO in its business documents of any authorization requirements for (re-) exporting its goods in accordance with German, European, US export and customs regulations as well as the export and customs regulations of the country of origin of its goods. For this purpose, the supplier must provide the following information, at least in its offers, order confirmations and invoices for the relevant item of goods:

- the export list number in accordance with Annex AL to the German Foreign Trade Regulation on or comparable list items of relevant export lists,
- for US goods the ECCN (Export Control Classification Number) according to the US Export Administration Regulations (EAR),
- whether an export license is required for its goods
- the commercial origin of his goods and the components of his goods including technology and software,
- whether the goods are transported through the USA, manufactured or stored in the USA or made with the help of American technology,
- the statistical commodity code (HS code) of its goods.

18.2 Upon request, the supplier is obliged to inform LEUCO in writing of all other foreign trade data on its goods and their components as well as immediately inform LEUCO in writing (before delivery of the corresponding goods) of any changes to the above data.

### § 19. Declaration of long-term suppliers

For deliveries, the supplier must send annually a long-term supplier's declaration (certificate of origin) in which it is confirmed that the deliveries comply with the rules of origin for the preferred trade.

### § 20. Customs – right to reimbursements of customs

For deliveries and services from countries in which LEUCO has a duty-free right, the supplier shall, upon request, provide the documents required for a duty-free purchase (e.g. EC movement certificate).

### § 21. Prototypes, submitted documents

The consent of LEUCO to drawings, calculations and other documents or samples shall not affect the supplier's sole responsibility for the delivery item. This also applies to recommendations and suggestions from LEUCO.

### § 22. Supplementary Regulations

As far as the order conditions do not contain a regulation, the statutory provisions shall apply.

### § 23. Place of venue, applicable law

23.1 The exclusive place of jurisdiction, including for proceedings concerning bills of exchange, cheques and certificates, shall – regardless of the value in dispute – be courts of Horb, Germany that has factual and geographical responsibility for LEUCO's place of business in the first instance in the event that the parties are registered traders, legal entities under public law or special funds under public law; however, LEUCO shall alternatively be entitled to file a suit against the supplier at the court at the supplier's domicile or place of business. The same shall apply if the supplier does not have a general place of jurisdiction in Germany, if he changes his domicile or place of business or normal residence away from Germany after conclusion of contract, or if his domicile or place of business or normal residence is unknown at the time of filing the suit.

23.2 The contractual relationship and these General Terms and Conditions of Purchase shall be exclusively subject to the laws of the Federal Republic of Germany, to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

23.3 Should individual provisions of this contract be invalid or unenforceable or become invalid or unenforceable following conclusion of contract, this shall not affect the validity of the remainder of the contract. The invalid or unenforceable provision shall be replaced by a valid and enforceable provision whose effect comes as close as possible to the economic aim pursued by the Parties with the invalid or unenforceable provision. The above provisions shall also apply accordingly in the event that there are loopholes in the contract.

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As at: January 2018

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