

General Terms and Conditions of L&VT Luft- und Ventilatoren-Technik GmbH

1. **We shall only apply and recognise our General Terms and Conditions of Business**
- 1.1. All our offers are subject to our General Terms and Conditions of Business. We will only accept orders based on these conditions. General Business Terms of the purchaser or rules or agreements of the purchaser that deviate from our General Terms and Conditions of Business shall only be binding for us, if we explicitly acknowledge them in writing.
- 1.2. With the acceptance of an order or service, the purchaser acknowledges the validity of our General Terms and Conditions of Business, not only for that particular transaction but also for all future business.
2. **Offers - Secondary agreements - Contractual content - Offer-related documents**
- 2.1. Our offers are non-binding, i.e. a contract shall only come into effect once we have accepted the order.
- 2.2. Secondary agreements to our offers and order confirmations as well as arrangements with our sales representatives require our confirmation in writing in order to be valid.
- 2.3. In cases of doubt, only our order confirmation shall be decisive for the contractual content.
- 2.4. Any documents attached to our offers (illustrations, designs, dimensions and weight specifications inter alia) shall only apply approximately, unless they are explicitly described as binding. We shall retain the complete ownership rights and copyright to these documents. These documents may not be disclosed to third parties and shall be returned immediately upon request, or if the order is not placed with us.
3. **Prices and payments**
- 3.1. Unless otherwise agreed, our prices shall apply for delivery ex works but do not include freight or packaging and for all services, excluding insurance and VAT. We invoice VAT at the statutory rate applicable in each case on the date of performance.
- 3.2. Should our purchase prices and/or our applicable wage and salary costs increase for the orders before they are completed, where the orders are to be delivered later than four Mondays following the formation of the order, we may invoice at a correspondingly higher rate based on the pro-rata purchase price and/or wage costs of the agreed price.
- 3.3. Unless agreed to the contrary, our services shall be due for payment at the latest 30 days after their completion and without any deductions. Our employees are not entitled to accept payments. Agreement of any discounts for early payment shall only apply if the purchaser is not in arrears with the payments for earlier orders. Otherwise, the appropriate payment terms and conditions in the offer or in the order confirmation shall apply.
- 3.4. Should circumstances become known to us after conclusion of the order which appear to place the creditworthiness of the purchaser in doubt, we may choose to demand prepayment or the provision of a security. The same shall apply if the purchaser fails to meet one of his payment obligations to us within the due time. Should such a case arise, all claims against the purchaser, including all secondary claims and those from other business, shall become due immediately, if we have accepted any bills of exchange that are not yet due, we may demand immediate payment against return of the bill of exchange.
- 3.5. Should the purchaser not pay by the due date, we may charge interest from the due date at a rate of one per cent for each month commenced of arrears, without there being any arrears. We reserve the right to claim a higher level of compensation due to delay. The purchaser is obliged to make good all damages to us that have resulted from the arrears. This shall apply especially to all costs of legal actions.
- 3.6. If we accept cheques or bills of exchange, this shall always only occur on account of payment but not in lieu of performance. In these cases, we shall not vouch for their timely submission or protesting. The costs of discounting and collection shall be borne by the purchaser; he has to refund these amounts immediately upon request.
- 3.7. The purchaser has no right of offset against our claims for payment or to exercise any right of retention for the overdue amounts. This shall not apply to offsetting uncontestable or legally binding established claims and to exercising any right of retention until such claims are fulfilled.
4. **Performance periods and deadlines**
- 4.1. The agreed periods and deadlines for our services shall only apply approximately, unless designated explicitly as binding.
- 4.2. A period of performance in terms of its duration shall only start at the end of the day on which full agreement has been reached over all details of the content of the order, at the earliest, with acceptance of the order by us, though not before the purchaser has furnished the documents, licences, approvals to be obtained and not before receipt of a down payment to be made by the purchaser.
- 4.3. A delivery period or a delivery date shall be deemed to have been met, if the goods have left our factory or sales warehouse, or in cases where the goods cannot or should not be dispatched, the notification of our readiness to supply has been sent until the end of the deadline.
- 4.4. Should performance be delayed due to circumstances outside our control (e.g. war, mobilisation, fire, flooding, strikes, lock-outs, impoundment, embargos, interdiction of currency transfers, riots, lack of means of transportation, general lack of supplies, restrictions on use of energy, malfunctioning of operation, inter alia), the period of performance shall be extended or the delivery date shall be postponed for the duration of the restriction; this shall also apply to delays which occur as result of our not delivering correctly or in a timely fashion through no fault of our own. Should such circumstances arise, after we are in default, the penalties of default shall be excluded for the period of their effectiveness.
- 4.5. Should we find ourselves in default with one of our services, the purchaser may withdraw from the contract, if he has notified us in writing of a period of grace of at least four weeks, and if service or delivery has not been made in accordance with Section 4.3 within this period of grace.
- 4.6. The purchaser may under no circumstances be entitled to claims for compensation, if a date for performance or deadline has been exceeded, or if we are in default with respect to performance unless the period or missed deadline is due to intent or gross negligence on the part of one of our legal representatives or one of our agents.
- 4.7. Should the provision of goods be delayed at the purchaser's request, we may, after one month of pending out notification of our delivery readiness, invoice a storage charge amounting to 0.5 % of the invoice amount for each commenced month of the delay.
- 4.8. Should the purchaser default in acceptance or breach other duties to co-operate, we may demand compensation for any loss incurred after the setting of a period of grace, which may not be less than one month, and after a due warning, freely dispose of the goods.
- 4.9. We shall be entitled to make part deliveries and invoice for each part delivery.
5. **Insurance - Dispatch - Transfer of risk - Accepting the return of packaging**
- 5.1. We shall insure consignments of goods upon request and at the purchaser's expense against standard transport damages, excluding deliveries abroad, through forwarding agents or our own vehicles and collections.
- 5.2. Unless we receive special dispatch instructions, we shall dispatch the goods using a dispatch route that is the most favourable in our opinion. The goods shall be dispatched for the purchaser's account and risk.
- 5.3. The risk of loss or deterioration of the goods for which we are not responsible shall transfer to the purchaser when the goods are loaded in our plant, or if the goods cannot or are not to be sent, with the delivery of notification of our delivery readiness.
- 5.4. Insofar as we are bound by packaging regulations to take back packaging, the purchaser shall bear the costs of returning any used packaging.
6. **Assemblies**
- 6.1. For each assembly, outside or inside our plant, the expenditure incurred for assembly and allowances shall be refunded, especially expenditure for overtime, work on Sundays and work on public holidays. Travel time and waiting time shall be considered as working time.
- 6.2. All necessary structural work for assembly must be completed before the start of assembly to the extent that the assembly can be commenced immediately after delivery of the items to be assembled and be realised without interruption. The substructure must be completely dry and set hard and the spaces in which the assembly will ensue must be sufficiently protected from climatic conditions, well lit and sufficiently heated.
- 6.3. The purchaser shall provide a dry, lit and lockable space that is supervised and guarded for the storage of machinery parts, materials, work tools, inter alia.
- 6.4. The purchaser shall undertake to put in place in good time and at his own cost:
 - a) assistants and skilled workers in the numbers we consider necessary and within a timeframe that we consider necessary;
 - b) appliances, materials and energy output necessary for assembly and putting into operation,
 - c) the unloading of vehicles and the haulage of the items to be assembled from the vehicle to the assembly place, protection of the assembly place and of the assembly materials from damaging effects of any kind, cleaning of the assembly place.
- 6.5. Should the purchaser fail to comply with the foregoing obligations, we shall, after notification, be entitled, although not obliged, to undertake the work incumbent upon the purchaser at his expense.
- 6.6. The purchaser shall bear the risk from transporting any supplied parts.
7. **Reservation of title**
- 7.1. The goods which have been delivered by us shall remain our property until all our claims arising from the business relationship with the purchaser have been met, even if these are to be entered into a running account. With the issuance of a bill of exchange or cheques, our claim, for which we accept the bill of exchange or cheque, shall only be met once these are encashed.
- 7.2. Should we not acquire joint ownership of the goods through a combination of the goods delivered by us with the purchaser's goods, but lose ownership, the ownership or joint ownership of the purchaser shall immediately pass to us with the generation of the new product. The purchaser shall already relinquish to us all expectant rights which may lead to such ownership or joint ownership being acquired by the purchaser. Any handover required for the acquisition of ownership or joint ownership by us will be replaced by an agreement that the purchaser shall keep the item in safe custody for us as a borrower, or if the purchaser does not own the item, by the assignment herewith agreed of entitlement to restitution from the owner. The ownership or joint ownership that results for us shall be handled legally in the same way as the original goods.
- 7.3. All claims by the purchaser from a resale of the goods over which we have ownership or joint ownership (goods subject to retention of title), shall pass to us upon conclusion of the sales transaction, and regardless of whether the goods are sold to one or more purchasers. In the event that the sold goods do not fully belong to us or that they are sold in conjunction with goods that do not belong to us, the assignment shall only encompass the counterclaim up to the invoice value of our goods. The purchaser is obliged immediately upon request to provide to us with the names and transcripts of his subpurchasers as well as the data and amounts of each invoice for the resale of the goods subject to retention of title.
- 7.4. The purchaser may collect the claims assigned. We may revoke this authority if the purchaser does not punctually meet one of his obligations to us, or if we become aware of circumstances which appear to place our rights at risk.
- 7.5. At the request of the purchaser, we undertake to release, at our choice, any security interests (goods and receivables) to which we are entitled under the above rules, insofar as their value exceeds the claims to be secured by more than 20%. The realisable value (security value) is decisive for the valuation of the securities.
- 7.6. Should our reservation of title lose its validity as the goods have been delivered abroad or for other reasons, the purchaser is obliged to promptly grant us a security for the delivered items or another security for our receivables that are recognised under legislation applicable to the purchaser's registered offices or is as close as possible to retention of title under German law.
8. **Warranty**
- 8.1. We shall provide a warranty for all goods with defects that appear within twelve months, calculated from the time we completed performance in accordance with Section 4.3, and in a manner that we will replace any defective parts at our expense.
- 8.2. Should the warranty, with the agreement of both parties, extend beyond the legal warranty period, written confirmation for this will be necessary.
- 8.3. In this case the extended warranty shall not relate to purchased parts, e.g. motors, bearings, connector sockets etc., unless this has been explicitly confirmed. Only a standard manufacturer's warranty will be granted for such parts.
- 8.4. We shall not be liable for errors in documents that have been presented or approved by the purchaser (designs, models, ancillary samples or the like) or for loss that has arisen through improper or inappropriate use, natural wear and tear or faulty or negligent handling. Product and quality specifications and technical and commercial depictions shall then only apply as assurance of properties if the particular specification or depiction has been expressly denoted as "assured".
- 8.5. If parts which we have obtained from a sub-supplier prove to be defective, we may be released from our warranty obligations by assigning our warranty claims against the sub-supplier to the purchaser; this shall not apply, however, if these rights fall short of the rights to which purchaser is entitled against us.
- 8.6. Defects in one element of our performance shall not entitle the purchaser to make a claim against our entire performance.
- 8.7. Our seller's obligation to provide a warranty is dependent upon the purchaser notifying us in writing of the defect as soon as it has been identified, and that this is done as soon as possible after the receipt of the goods insofar as the defect could be identified by inspection feasible during the normal course of business, though at the latest within eight days of the goods being received.
- 8.8. Our warranty obligation shall lapse if the goods are modified in any way by an external party. Furthermore, our warranty obligation shall lapse, if the purchaser does not comply with our conditions of use.
- 8.9. Should we fail to meet our warranty obligation, the purchaser may set us an appropriate period, which must be at least four weeks, and if we have still not met our warranty obligation by the end of such period, the purchaser may choose to demand a reduction in payment or a change of contract.
- 8.10. The purchaser shall not be entitled to any further rights other than those specified here, in particular compensation claims, such as for consequential loss or due to breach our warranty obligation, even if our warranty obligation is initiated by the absence of an assured feature. This limitation of the purchaser's rights shall not apply, if the defect or the breach of our warranty obligation is the result of intent or gross negligence on the part of one of our legal representatives or one of our vicarious agents.
9. **Breach of pre-contractual obligations and secondary obligations**
- 9.1. We shall only accept liability for the consequences of errors that arise during the contractual negotiations, in particular for consequences of inadequate or incorrect advice on the part of the purchaser, if these consequences are the result of intent or gross negligence on the part of one of our legal representatives or one of our vicarious agents.
- 9.2. Section 9.1. shall apply accordingly to the inconvenience suffered by the purchaser as a result of breaches of secondary contractual obligations by us, in particular, the duty to inform or to provide protection.
10. **Right to withdraw**
- 10.1. We have the right to withdraw from the contract, if its fulfilment is met by technical difficulties that cannot be overcome, or not without disproportionately high expenditure on our part in relation to the value of the goods or services we are to provide, or circumstances have to come to our attention that question the creditworthiness of the purchaser.
11. **Place of fulfillment - Place of jurisdiction - Applicable law**
- 11.1. The place of fulfillment for all obligations of the contractual relationship, especially service, rework, changes, reductions and taking back of packaging and payment is Wuppertal.
- 11.2. The sole place of jurisdiction for all disputes about and arising from the contract, as well as for bills of exchange and cheque processes is Wuppertal. However, we do have the right to institute proceedings against the purchaser in another place of jurisdiction that is applicable to him. If the purchaser is not a federal special fund under public law, but has a general court of jurisdiction in the country, these conditions shall apply in the event that the purchaser relocates his registered offices or normal place of residence outside the Federal Republic of Germany, or that his normal place of residence is unknown at the time a claim is brought.
- 11.3. In the case of foreign business, the entire contractual relation shall be subject to the laws of the Federal Republic of Germany, unless the application of mandatory laws of another jurisdiction cannot be excluded. The application of the Uniform Law regarding the conclusion of international purchase agreements on chattels and of the Uniform Law on the international purchase of chattels is excluded.
12. **Partial invalidity**
- 12.1. Should particular provisions of these General Terms and Conditions of Business be or become ineffective for whatever reason, this shall not affect the validity of the remaining provisions.
13. **Replacement of the German Deutschmark by the EURO**
- 13.1. The replacement of the German currency, the Deutschmark, by the single currency of the European Monetary Union, the EURO, as well as all the legal and economic consequences associated with this currency conversion shall not in any way justify claims or rights by the purchaser and shall not alter the contractual basis of any contract that is formed involving these General Terms and Conditions of Business.