

Terms and Conditions of Purchase of  
**Lumberg Connect GmbH**  
**Lumberg Holding GmbH & Co. KG**

hereinafter jointly referred to as Lumberg

**I. Contents of the Contract and Deviating Conditions**

1. The Terms and Conditions of Purchase contained hereinafter apply exclusively. Lumberg neither recognizes conflicting conditions nor deviating terms and conditions of purchase of the Supplier unless Lumberg expressly agreed to their application in writing. The following Terms and Conditions of Purchase apply even in the case of Lumberg being aware of the Supplier's terms and conditions of purchase conflicting with, or deviating from, its own General Terms and Conditions of Purchase and accepting the Supplier's delivery without reservation.
2. All agreements made between Lumberg and the Supplier for the purpose of fulfilling a contract must be stipulated in writing in these terms and conditions. Verbal side agreements do not exist.
3. The subsequent Terms and Conditions of Purchase apply equally to any and all future business between Lumberg and the Supplier.
4. The subsequent Terms and Conditions of Purchase apply exclusively to companies in the meaning of Sect. 310 (1) German Civil Code.

**II. Date of Delivery, Delay of Delivery, Passing of Risk**

1. The agreed delivery dates and deadlines are binding. The timeliness of deliveries shall be determined by the receipt of the goods at the shipping address. This applies also if Lumberg bears the cost of transport. If a contract for work and services is agreed upon for the delivery, then the time of the acceptance is relevant.
2. The place of performance is the point of reception designated by Lumberg.
3. The Supplier shall undertake to immediately inform Lumberg in writing if circumstances emerge or become obvious to the Supplier which imply that the stipulated delivery time cannot be met.
4. The unconditional acceptance of late deliveries does not indicate the surrender of associated legal rights.
5. If the Supplier culpably exceeds the agreed delivery date, Lumberg is entitled to request a contractual penalty of 0.5% of the delivery value for every completed week, however no more than 5% of the delivery value. Lumberg is entitled to enforce a contractual penalty in addition to the fulfillment. Lumberg shall undertake to declare to the Supplier the reservation of the contractual penalty within a maximum 10 working days as of the date of receipt of the delayed delivery. Further claims and rights are reserved.
7. The risk of accidental loss or deterioration shall pass to Lumberg only upon receipt of the goods at the shipping address (in the case of delivery subject to a contract for work and services, upon acceptance).
8. The Supplier is not entitled to have the order performed by a third party without a prior written consent. The same applies to the production site. Relocating the production to an alternative location requires the express prior approval on behalf of Lumberg.
9. Lumberg has the right to transfer existing orders subject to the same conditions, to companies associated to Lumberg. If this impairs substantial interests of the Supplier, the Supplier is entitled to terminate the contract.

**III. Packaging and Shipping**

1. A notification of dispatch which includes our order number, is to be sent to Lumberg upon shipment of the goods.
2. Unless agreed otherwise, the goods to be delivered shall be packed properly and in accordance with industry standards. The Supplier is liable for damage caused as a result of defective packaging.

3. Deliveries including packaging shall be carried out, at no cost, to the designated point of reception unless agreed otherwise in writing. Deliveries for which Lumberg shall bear the freight charges either in total or in part shall be transported by the most inexpensive means of shipping and subject to the most favorable freight rates unless Lumberg specified a particular mode of transport. Cartage and other expenses at the place of shipping are for the Supplier.
4. The Supplier shall bear the risk of transport.
5. All consignments must include a delivery note stating the order number and item number and poss. the internal job number provided by Lumberg, plus a note stating whether the consignment constitutes a complete or partial delivery. The delivery note shall also include information about the gross and net weight. Lumberg shall not be responsible for delays in processing as a result of absent information.
6. The return of the packaging has not been agreed to. In other respects, the Supplier shall bear the cost of return.

**IV. Customs Tariff Preferences, Movement Certificates**

In the case of imports the Supplier shall deliver the goods inclusive of valid tariff preference documents (movement certificates) which are in conformity with the respectively applicable regulations of the European Union. The Supplier shall sign a separate written agreement with Lumberg concerning this which specifies in particular the Supplier's obligations to cooperate as well as possible claims for compensation on behalf of Lumberg in the case of proven damage.

**V. Provision of Material**

1. Materials and sub-assemblies provided remain the property of Lumberg. Tools that have been supplied or subsidized as well as other means of production remain the property of Lumberg. Upon payment of the agreed subsidy Lumberg acquires co-ownership in proportion to the value of the subsidy.
2. The Supplier shall undertake to use the materials, sub-assemblies, tools or other means of production produced or provided by Lumberg for the agreed purpose only (to produce the goods that Lumberg ordered). Also, the Supplier shall undertake to insure the items provided by Lumberg at their original value and at the Supplier's own expense against fire, damage caused by water and theft. At the same time, the Supplier shall already assign to Lumberg all claims for damages resulting from this insurance, and Lumberg shall hereby accept the assignment. The Supplier shall undertake to treat the items provided with due care and to perform any necessary maintenance and repair work at his own expense. Possible malfunctions shall be indicated to Lumberg immediately; if the Supplier culpably omits to do so, this will not affect claims for damages.

**VI. Title, Assignment**

1. The title to the supplied goods passes to Lumberg following settlement of the full amount due by Lumberg. A prolonged or extended reservation of title on behalf of the Supplier is excluded.
2. The assignment or pledging of payment claims requires the written consent on behalf of Lumberg. Exceptions to this include assignments in advance which the Supplier entered into for products that he purchased under an extended reservation of title.

## VII. Pricing

1. In the absence of any other agreements, prices are fixed and include all legal value added tax. Prices include all costs including free delivery to our shipping address, and in particular the cost of packaging and shipping, customs duties and similar fees as well as insurance.
2. In the case of pricing quoted ex Supplier's works or ex Supplier's warehouse, shipping shall be performed at the lowest prices unless Lumberg requests otherwise. Additional costs are to be borne by the Supplier.
3. Lumberg is not obligated to return the packaging in the absence of any special agreement or mandatory statutory laws. If the packaging must be returned or if the Supplier requests the packaging to be returned, then the Supplier shall bear the freight charges for this. If Lumberg assumed the cost of packaging, Lumberg is in any event entitled to return the packaging. The cost of packaging shall then be credited in full.

## VIII. Invoices, Payments

1. Invoices are to be sent to Lumberg's address, indicating the individual delivery items and the designation of the delivery notes and dispatch notes as well as the order numbers, unless another invoice regulation is indicated. Invoices must not be included in the delivery of the goods. The Supplier is responsible for any and all consequences arising from the failure to observe this regulation unless he can prove that he is not responsible.
2. Unless otherwise agreed in writing, payment is to be effected within 14 days as from the delivery and receipt of invoice and is subject to a 3% discount, or is payable net when effected within 30 days following the receipt of invoice.
3. Lumberg is entitled to rights of offsetting and retention to the extent allowed under law. A discount is also permissible if Lumberg offsets with justified and due counterclaims or refers to a right of retention.
4. The payment period commences only upon the full receipt (respect. acceptance) of the ordered goods as well as the agreed delivery date. Services and other performances fall under the date of acceptance.
5. Payments effected by Lumberg do not imply an acknowledgement of the delivery having been effected in accordance with the contract and are at all times subject to the fulfillment in accordance with the contract.

## IX. Warranty, Notices of Defects

1. The Supplier is liable for any and all defects of the delivery in accordance with statutory regulations. The specifications and designs underlying each delivery relationship are relevant for the accuracy of the delivery. The provisions of our quality guidelines which are known to the Supplier, as well as individually made quality agreements, equally hold.
2. Lumberg is fully entitled to legal claims based on defects. In any event Lumberg is entitled to demand from the Supplier, at Lumberg's discretion, a remedy of the defect or the delivery of a new item. The right to compensation for damages, and in particular to compensation for damages instead of the performance, is expressly reserved.
3. The supplied goods are deemed unsatisfactory if not complying with state of the art technology, the relevant operational safety and environmental protection regulations, accident prevention regulations as well as other safety-relevant regulations which apply in the Federal Republic of Germany. If the Supplier is aware of Lumberg reselling the goods to another country, such goods shall comply with the regulations of that country.
4. Lumberg shall undertake to examine the goods immediately upon receipt for variations of quality or quantity as well as for any visible defects. Should Lumberg discover a defect, Lumberg shall immediately notify the Supplier of such defect. Lumberg shall indicate any defects that are not

discovered during the inspection to the Supplier within a reasonable period as soon as they are discovered in the proper course of business. Insofar the Supplier shall waive the objection for a late notification of defects.

5. Lumberg is entitled, at the Supplier's expense, to remedy the defect itself if the Supplier is in default.
6. The limitation period is 36 months as of the passing of risk unless the mandatory regulations of Sections 478, 479 German Civil Code apply.

## X. Product Liability

1. Insofar as the Supplier is liable for product damage the Supplier shall undertake to release Lumberg of third party claims for damages at first request if the cause is to be found in their territory and organization and they are liable externally themselves.
2. The Supplier shall undertake to take out and maintain an appropriate product liability insurance whose cover is in proportion to the scope of the business relationship as well as the specific liability risk, for the duration of this contract, i.e. until expiration of the respective limitation period. If Lumberg is entitled to further claims for damages, these are not affected.
3. At the request of Lumberg, the Supplier shall submit proof of the relevant information regarding the insurance cover (scope and amount of cover). The Supplier shall inform Lumberg of any modifications to the insurance cover in writing and unsolicited.

## XI. Property Rights

1. The Supplier guarantees that no third party rights within the Federal Republic of Germany are infringed upon in connection with or by his delivery.
2. If Lumberg is the subject of third party claims for damages, the Supplier shall undertake to release Lumberg of these claims at Lumberg's first written request. Lumberg is not entitled to make any agreements with such third party – without the Supplier's approval - and here in particular, shall not agree to any settlement.
3. The Supplier's duty to indemnify refers to any and all expenses which Lumberg inevitably incurs as a result of, or in conjunction with, the third party claim unless the Supplier proves that he is not responsible for the breach of obligation of the underlying infringement of the property right.
4. The limitation period for these claims is three years as from the passing of the risk.

## XII. Environmental Protection, Documentation

1. The Supplier shall ensure that when using and processing the products ordered by Lumberg, he will strictly comply with applicable environmental protection provisions. The Supplier shall document this using accurately completed safety data sheets in accordance with valid regulations pertaining to hazardous materials. The Supplier shall undertake to submit the documentation to the ordering party at the latter's request.
2. Materials that are potentially hazardous to health are to be indicated to the ordering party unsolicited.

## XIII. Data Storage

Lumberg is entitled to process data received in conjunction with the business relationship in accordance with the Federal Data Protection Act.

#### **XIV. Jurisdiction and Applicable Law**

1. If the ordering party is a business, then the courts at the domicile of Lumberg in Schalksmühle (venue: Hagen) shall have exclusive jurisdiction for all disputes arising directly or indirectly from the contractual relationship. However, Lumberg is equally entitled to sue at the Supplier's domicile.
2. German substantive law applies to the contractual relations, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

#### **XV. Miscellaneous**

These Terms and Conditions of Purchase supersede any previous versions. Should individual provisions be invalid, then this does not affect the validity of other regulations. This equally applies to the validity of any contracts entered into on the basis of these Terms and Conditions. However, it does not apply if adhering to the contract would create unreasonable hardship for either party.

Schalksmühle, June 2013

