

Version12/2017

Purchase and Payment Conditions of LST Linster Stainless Trading GmbH

1. General Provisions

- 1.1 Our orders shall be issued solely on the basis on the following conditions. We shall not acknowledge the terms and conditions of the seller, unless we have expressly agreed to their application in writing. Our following conditions also apply when we accept the delivery or service without reservation and have knowledge of the seller's conflicting conditions or those that deviate from our following conditions. Our conditions also apply to all future transactions in the scope of a continuing business relationship with the supplier and service providers.
- 1.2 As a supplement to these general terms and conditions the provisions of INCOTERMS 2010, 7th amendment or later amendment shall apply to the mentioned points in these terms and conditions.
- 1.3 Oral agreements from our employees shall first become binding upon written confirmation.
- 1.4 The creation of offers by the supplier or service provider is free of charge and non-binding for us.

2. Conclusion of Contract, Assignment of Rights

- 2.1 A contract with the supplier and service provider shall only be concluded when a written or oral order is issued by a person authorised without restriction to do so. Likewise, oral agreements that are not concluded with a person mentioned above shall only become valid with a corresponding written confirmation on our part. We are no longer bound to our order offer four weeks following the order date at the latest.
- 2.2 We retain property and copyrights to images, drawings and documents which we provide to the contract partner in the scope of our business relationship. This also applies to written documents that are described as "confidential". The supplier or service provider requires our express written permission prior to forwarding to a third party. The same applies if the documents are not used in conjunction with our order. When the order has been performed, the documents are to be returned to us immediately without request.

- 2.3 The supplier or service provider is not permitted to assign the performance of the contract or his contractual claims either fully or in part to a third party without our prior written permission. The contract partner's suppliers and service providers are to be named to us upon request.

3. Invoices, Prices, Payment Conditions

- 3.1 The agreed prices are DAP INCOTERMS fixed prices unless otherwise agreed. They include everything that the supplier or service provider is to effect to fulfil his performance duty.
- 3.2 Invoices are to be issued following delivery in a comprehensible and correct form with all accompanying documents and information. They shall be paid by us within 14 days with 3 % discount or within 30 days net following full delivery and the issue of a correct invoice (from receipt of the invoice). Payment and discount deadlines commence upon receipt of the invoice but not prior to receipt of the goods or by services not before these are accepted and any documentation, test certificates (e.g. factory certification) or similar documents included in the scope of services are issued to us as per the contract.
- 3.3 We have off-setting and retention rights to the statutorily stipulated scope. This also applies to off-setting and retention rights from newer invoices for earlier or older deliveries from the supplier or service provider. We are particularly entitled to withhold the purchase price if and for as long as test certificates in accordance with DIN-EN10204 are not provided as agreed.
- 3.4 Price escalation clauses from our suppliers and service providers only apply if these are bindingly and expressly agreed in an individual form for each individual case. The alloying fees applicable on the date of delivery shall apply.

4. Measurements, Weights, Quality

- 4.1 Deviations in measurement, weight and quality are permitted in accordance with DIN-EN, or insofar as corresponding standards are lacking, in accordance with DIN or are also permitted when this is customary practice. Other deviations require a special agreement.
- 4.2 Weights and measures shall be assessed on our calibrated scales or timepieces and are determinate for invoicing.

5. Dispatch and Transfer of Risk

- 5.1 Insofar as not otherwise agreed, delivery is DAP delivery address Hilden corresponding to INCOTERMS. Place of performance and fulfilment is our factory in Hilden or another delivery destination stipulated by ourselves. Delivery is at the risk of the supplier or service provider until unloading at the destination address. The duty to hand over the delivery goods under the terms of this clause is fulfilled when the goods are safely stowed on the transporter at the dispatch point that is either contracted by us or a third party to deliver the goods to their internal end transport to us or are made available at the named unloading point.
- 5.2 The supplier or service provider assumes the risk for material damage until the goods are handed over to us or our contractor at the place at which the goods are to be delivered in accordance with the order (DAP delivery address, INCOTERMS 2010, 7th amendment) as per clause 5.1 above.

6. Packaging, Transport Containers

- 6.1 The packaging is to be customary for the trade insofar as no special form of packaging is agreed.
- 6.2 The obligation of the supplier or service provider to take back packaging is in accordance with the statutory provisions.
- 6.3 The transport equipment sent to us, e.g. pallets and cages remain the property of the supplier or service provider unless an exchange for similar transport containers is agreed.

7. Delivery Deadlines, Delayed Delivery, Storage

- 7.1 The delivery dates agreed with us must be adhered to. Partial deliveries are only permitted with our written consent. Threatened delivery delays are to be reported immediately. At the same time suitable countermeasures to avert the consequences are to be suggested. Over or under deliveries are only permitted at a customary scope.
- In particular a supplier's or service provider's T&Cs according to which the proviso of punctual delivery by their suppliers is stated is excluded. This condition is hereby expressly rejected.
- 7.2 The delivery term begins with the date of the legally binding order unless otherwise agreed in writing.

- 7.3 All dispatch papers, operating manuals and other documents that accompany the performed delivery are to be sent to us on the date of delivery. If through delivery delays including the delayed sending of the aforementioned documents any payment guarantees are forfeited, payment on our part shall first occur following receipt of the payment from our purchaser.
- 7.4 If the supplier or service provider becomes delayed in delivery we are entitled to our statutory rights. We are entitled following the unsuccessful expiry of a reasonable subsequent deadline we set, to demand compensation rather than the delivery. Our claim to performance is first excluded when the supplier or service provider has issued compensation.
If we should assert compensation rather than the delivery, the agreed contractual penalty under the terms of §§ 341 para.2, 340 para.1 BGB is to be added.
- 7.5 By delivery delays upon grounds for which the supplier or service provider is responsible a contractual penalty shall, irrespective of the above, be payable to us, in the event of a lack of agreement at 1% of the purchase price for every week commenced of the delay, however to a maximum of 5%. If a ship is named to ship the materials and this ship is accepted by the supplier or service provider, the supplier or service provider shall assume the costs for berth, freight, dead freight etc. irrespective of the stipulations above if the materials for whichever grounds are not or not shipped at the intended time.
- 7.6 Delivery performed early without our agreement does not affect the payment deadline in conjunction with the delivery date.
Partial deliveries require our written consent.
Over or short deliveries are only permitted within the trade customary scope.
- 7.7 If the fulfilment of our contract duties is hindered or made impossible through acts of god, strike or lockouts, we may withdraw in full or in part from this contract or request performance at a later date without the supplier or service provider becoming entitled to any claims against us.
- 7.8 The supplier or service provider can only use the lack of necessary documents to be delivered by us as recourse if he has not received these documents following a written reminder with a set deadline of at least 10 days.
- 7.9 The supplier or service provider assumes the risk of accidental loss and damage corresponding to DAP INCOTERMS until the handing over of the goods at the stipulated destination.

7.10 The storage of the objects required to fulfil the contract to perform services on our premises may only occur in storage spaces that we have allocated. The supplier or service provider shall assume full responsibility and risk for these objects until transfer of risk.

8. Declarations of Origin

8.1 At our request the supplier shall provide us with a supplier declaration on the origin of the goods. The supplier undertakes to enable the inspection of origin certificates by the customs administration and to provide both the necessary information and any required confirmation.

8.2 The supplier is obligated to replace damage that arises through the declared origin not being acknowledged by the competent authorities as a result of incorrect certification or possibility for confirmation unless he is not responsible for this.

9. Quality, Defective Goods, Warranty

9.1 The supplier or service provider is obligated to maintain a quality management system corresponding to the latest technical standards. The supplier or service provider shall perform inspections accompanying the manufacturing process in accordance with his QMS, unless it proves necessary that we consider a special preliminary inspection is required and order this via an inspection schedule. The supplier or service provider shall perform a final inspection of the products that ensures only defect-free goods are delivered. The supplier or service provider shall compile records, in particular of his quality inspections and provide us with these upon request. The supplier or service provider hereby consents to quality and/or environmental audits to assess the effectiveness of his quality and environmental management system by us or a commissioned third party. The supplier or service provider is obligated to acknowledge our environmental and energy policy and to sustainably promote these in the scope of the contractual relationship.

9.2 The acceptance of the delivery is subject to the proviso of inspection for freedom of defects insofar and as soon as this is feasible in accordance with a customary business transaction. This however only includes identity, completeness and externally visible defects. Furthermore, the incoming goods inspection will be replaced by the quality control by the supplier or service provider in accordance with the aforementioned paragraph. The supplier or service provider hereby waives the appeal of a delayed complaint to defect in accordance with § 377 HGB.

9.3 If the goods have a material defect, we are entitled to the statutory rights of our discretion. A subsequent performance by the supplier or service provider applies as unsuccessful following the

first unsuccessful attempt. We are also entitled to a right to withdrawal when the breach by the supplier or service provider concerned is only minor.

- 9.4 We can also demand replacement of those expenses in conjunction with the defect from the supplier or service provider that we are to assume in relationship with our purchaser, when the defect was already present at transfer of risk to us.
- 9.5 In urgent cases, in particular to defend against acute risk or avoid greater damage we have the right to perform the subsequent performance ourselves or have this done by a third party at the cost of the supplier or service provider.
- 9.6 The expiry term for our complaints to defects commences with the completed unloading of the goods or the acceptance of the service. The supplier or service provider's liability for defects ends for claims arising on the grounds or in conjunction with the delivery of goods two years following unloading of the goods. Claims on the grounds or in conjunction with the delivery of goods that corresponding to their usual method of use are used in a building expire five years following delivery. Otherwise the statutory terms shall apply.
- 9.7 The supplier or service provider already assigns us as fulfilment all claims to which he is entitled against his suppliers or service providers on the grounds and in conjunction with defective goods in conjunction with the delivery of such goods that are lacking their guaranteed characteristics. He shall provide us with all documents required to assert such claims.
- 9.8 The supplier or service provider releases us from indirect third-party claims asserted against us on the grounds of defective performance rendered by the supplier or service provider. The supplier or service provider shall also release us from product liability claims. He also assures that he has concluded a product liability insurance at an adequate sum. For all statutory and contractual liability cases (particularly in the event of the breach of duty by an action of contract, breach of contract through delay, impossibility, failure or unauthorised action) we are only liable if the damage is caused by a culpable or grossly negligent act which causes the damage. Also, in this case liability is limited to damage that we could foresee.
- 9.9 The supplier or service provider assures that there are no third-party rights to the delivered goods. An extended or forwarded retention of title on the part of the supplier or service provider will not be acknowledged. Assignments and pledging of accounts receivable are not permitted. In addition, the provision in Clause 10.10 shall apply.

9.10 If we take back products we have manufactured and/or sold on the grounds of defects to the contract goods delivered by the supplier or service provider or if the purchase price is reduced or we are otherwise claimed against, we reserve the right to regress against the supplier or service provider, whereby the setting of a deadline that is otherwise necessary for our rights for defects is not required.

In the event of a withdrawal we have the right to demand any expenses arising from the defective delivery in proportion to which we are to assume towards our customer from the supplier or service provider.

9.11 If within six months of the transfer of risk a defect becomes evident it is assumed that this defect was already present upon transfer of risk unless this suspicion is incompatible with the type of object or defect.

9.12 In the event of a withdrawal we have the right to use the deliveries and services from the supplier or service provider free of charge until the procuring of a suitable replacement. The supplier or service provider assumes all costs in conjunction with the withdrawal and also shall pay for disposal.

10. Retention of Title

10.1 A retention of title on the part of the supplier or service provider is only a component of the contract when the ownership of the goods is transferred to us upon payments and correspondingly the extended form of the so-called current account reservation does not apply.

On the grounds of an effectively agreed retention of title the supplier or service provider can only demand a surrendering of the goods, when he has withdrawn from the contract in advance.

10.2 If we provide parts to the supplier or service provider in the scope of an order, the delivered goods remain our property (reserved goods) until the fulfilment of all demands to which we are entitled in the scope of the business relationship, including claims arising in the future also from simultaneously or later concluded contracts. If there is a current account relationship between us and the supplier or service provider, the retention to title refers to the acknowledged balance. The supplier or service provider undertakes to only store items provided by us clearly separated from other stock and to mount a visible sign advising of our continuing ownership. We have the right to control a corresponding storage at any time.

10.3 The processing of reserved goods by a company occurs for us as manufacturer as per § 950 BGB without obligating us. The processed goods apply as reserved goods as per these provisions.

- 10.4 By processing, compounding and mixing reserved goods with other goods by the supplier or service provider which is a company, we are entitled to the co-ownership to the new item in relationship to the invoice amount of the reserved goods (invoice total including VAT) to the invoice value of the other goods. If our ownership is dissolved through processing, compounding and mixing the supplier or service provider already now transfers the ownership or expectant rights to the new inventory to the scope of the invoice value of the reserved goods, in the event of processing in relationship to the invoice value of the reserved goods to the invoice value of other goods used and shall store these for us free of charge. Our co-ownership rights apply as reserved goods as per this clause.
- 10.5 In the event of a culpable breach of important contractual duties on the part of the supplier or service provider, in particular delayed payment, we have the right when the conditions for a withdrawal from the contract are given to withdraw our goods and where applicable to enter the premises of the supplier or service provider and to seize the goods. We can also prohibit the further processing of the delivered goods. In taking back the goods by us a withdrawal of contract is conclusively given. In the event of pledging by a third party the supplier or service provider is to inform us immediately in writing, by immediate risk also through another suitable method.
- 10.6 The supplier or service provider may only resell the reserved goods in the course of customary business transactions under his usual terms and conditions, as long as he is not in default. He is not entitled to otherwise dispose over the reserved goods. The use of reserved goods to fulfill service and service work contracts also applies as resale.
- 10.7 The supplier or service provider already hereby assigns us his claims from a resale of the reserved goods including all additional rights. We accept the assignment. They serve at the same scope as security as the reserved goods as per this clause. If between us and the supplier or service provider there is a current account relationship the assignment also refers to the acknowledged balance as well as in the case of insolvency of the supplier or service provider then to the available "causal" balance.
- 10.8 If the reserved goods are resold by the supplier or service provider together with other goods, the claim from resale shall be assigned to us in proportion to the invoice value of the other goods already through these T&Cs. We accept the assignment. By the reselling of goods on which we hold co-ownership shares as per the above paragraphs, a part of the claim will be assigned to us to the corresponding proportion.

- 10.9 A commercial purchaser is also entitled to collect accounts receivable also following assignment. Our authorisation to collect the account receivable ourselves hereby remains unaffected, however we are obligated not to collect the account receivable for as long as the purchaser fulfils his payment obligations, does not default payment and in particular does not file an application for insolvency proceedings on his assets or a cease of payment arises. If this is the case, we can demand that the purchaser informs us of the assigned claims and the debtor, provides all necessary information required for collection, issues the associated documents and informs the debtor (third-party) of the assignment.
- 10.10 The purchaser is not authorised to assign accounts receivable. An assignment in the form of real factoring is permitted under the condition that he informs us of the factoring bank and the accounts maintained there and the factoring profit exceeds the value of the assured claim.
- 10.11 We are obligated to release the securities to which we are entitled at the demand of the purchaser insofar as the implementable value of our securities exceeds the claims to be secured by more than 10%. The choice of security to be released is at our discretion.

11. General Limitation of Liability, Product Liability

In the event that we are sued in relation to a delivery from the supplier or service provider on product liability grounds, the supplier or service provider is obligated to release us from such claims upon first request, insofar and as long as the damage is caused by a defect in the contract item delivered by the supplier or service provider and in the event of liability without fault, if the supplier or service provider is at fault and/or the defect is determined to arise from an area under his organisation or influence. Insofar as the cause of the damage lies in the area of responsibility of the supplier or service provider, he shall assume the burden of proof.

The supplier or service provider shall in this case assume all costs and expenses including the costs of any legal action or recall measures. Otherwise the statutory provisions shall apply.

12. Applicable Law, Priority of the German version

The law of the Federal German Republic shall apply under the exclusion of the UN CISG dated 11.04.1980. In case of interpretation necessities, the German version of the T+C's is taking priority to the English version.

13. Final Provisions

- 13.1 Unless otherwise expressly agreed the place of performance for both parties is Hilden.
- 13.2 If the supplier or service provider is a commercial customer, legal entity under public law or special fund under public law the legal venue is Hilden, unless another legal venue is mandatorily stipulated. We are however entitled to sue the purchaser at his general legal venue.
- 13.3 The supplier's or service provider's rights arising from contracts concluded with us are not transferable.
- 13.4 The supplier or service provider shall ensure at his costs and without delay that all requisite validity requirements for the order in the seller country e.g. export permits, are obtained and remain valid during the processing of the order. If the supplier or service provider does not fulfil this duty, we have the right to withdraw from the contract and in all cases demand compensation from the supplier or service provider. The same applies in the event that e.g. required permits are not issued within a term reasonable for us despite the efforts of the supplier or service provider, or are revoked or become invalid.
- 13.5 In the event of any legal invalidity of individual provisions of these T&Cs the provision of § 306 para.1 BGB shall apply unrestrictedly.
- 13.6 We adhere without restriction to the provisions of the Federal Data Protection Act and the Data Protection Ordinance.