

**I. General**

1. All deliveries and services of Langmatz GmbH – including the provision of software - shall take place on the basis of the following terms of delivery and payment. They shall therefore also apply for all future business relationships, even if they are not explicitly agreed again.
2. Any divergent purchase terms of the Customer are herewith explicitly opposed. They shall only be binding upon us if we have acknowledged them in writing. In particular, we herewith reject any general claim that these purchase terms also apply even if our terms contest the validity of the purchase terms.
3. By placing the order and accepting the goods delivered by us, the Customer confirms its agreement to our terms and conditions.

**II. Offers**

1. Unless limited in time, our offers shall always be subject to change without notice; written confirmation of order by us shall be decisive for the scope of the delivery.
2. We reserve the right to carry out alterations at any time in so far as they serve technological progress.
3. Technical drawings and documents enclosed with the quotation are intended for the personal use of the recipient only and may not be made accessible to third parties without our explicit consent.
4. Obvious mistakes, misprints, computational errors, spelling mistakes and miscalculations shall not be binding upon us, and shall not justify any claims for performance or damages.
5. Weights, measurements or other descriptions of quality are for informational purposes only and without obligation, and do not constitute guaranteed properties unless explicitly warranted in writing.
6. If the Buyer withdraws from an order that has been received, we shall, irrespective of our option to claim a higher actual loss, claim 10% of the purchase price to cover the costs incurred in the course of order processing and lost profit. The Buyer shall be entitled to prove that a lesser loss was incurred.

**III. Price and payment**

1. The prices quoted in the confirmation of order shall apply ex works, excluding packaging, customs, and import duties, plus statutory value added tax. All prices are quoted in euros. Even in the case of export transactions, all invoices shall also be issued in euros.
2. In so far as we are obliged to take back the transport packaging pursuant to the statutory packaging regulations, the Buyer shall bear the costs for the return transport of the used packaging and the costs resulting from its recycling or – insofar as we deem it feasible and expedient – the reasonable additional costs incurred in connection with the reuse of the packaging.
3. Any price increases shall be borne by the Buyer, insofar as delivery takes place later than four months following the conclusion of the agreement as per the agreement or for reasons for which we are not responsible. In other cases that Buyer shall be under obligation to agree an adjustment of prices with us in the event significant changes to cost factors, including in particular labor, material, and capital costs, in the period between the confirmation of order and delivery. In the event of minor changes, we shall be entitled to increase the prices unilaterally.
4. The invoice amount shall be due for payment within 10 days minus a 2% discount, or within 30 days net without deductions.
5. Trade discounts shall not be granted if the Buyer is in arrears with other payments.

6. Assembly costs, repairs, and seminar fees are payable immediately net, without deduction.
7. If the Buyer fails to pay within the prescribed period, we reserve the right to assert a claim for damages caused by default in the amount of the bank loan taken out by us.
8. Payments may only be withheld or offset against counterclaims on the part of the Buyer if said counterclaims have been recognised by us or have been upheld pursuant to a final and absolute court decision.
9. In the case of export orders, the Buyer shall issue an irrevocable, confirmed and assignable letter of credit in our favour by a merchant bank 10 days prior to the agreed date of dispatch and negotiable via a foreign trade bank to be disclosed to the Buyer, whereupon payment shall be made upon presentation of the following documents: Customary commercial invoice in quadruplicate, details of the quantity and type of goods, carrier's receipt with proof of the irrevocable shipping order to the consignee and a copy of the consignment note.
10. Euro pallets are to be exchanged free of charge upon delivery or shall be billed subsequently. The subsequent return by the Customer to Langmatz GmbH shall take place at the expense and risk of the Customer. The deposit shall only be reimbursed if the pallets are returned in an undamaged, flawless and entirely reusable condition.
11. Disposable packaging, packaging materials and outer packaging are an integral part of the ordered goods and shall become the property of the Buyer. Likewise, the disposal of all other materials associated with the ordered goods (packaging, etc.) shall fall under the Buyer's waste-disposal obligations..

**IV. Delivery period**

1. The delivery period only shall only be fixed with our confirmation of order. Agreed delivery periods shall not constitute fixed dates.
2. The delivery period shall only be deemed agreed if all technical and commercial details have been clarified at the time of the acceptance.
3. The delivery period shall be regarded as having been observed if the delivery item has left the factory or the Buyer has been notified of its readiness for shipment prior to its expiry.
4. The delivery period shall be extended by an appropriate period of time in the event of obstacles for which the Supplier is not responsible or which are attributable to force majeure; including strikes and lockouts. This shall also apply in the event of unforeseen impediments and circumstances affecting subcontractors.
5. Timely delivery shall be conditional upon the Buyer fulfilling its contractual obligations.
6. If shipment is delayed at the Buyer's request, we shall be entitled to otherwise dispose of the delivery item after setting a reasonable period, to deliver to the Buyer within a correspondingly expended period and to bill the Buyer for and storage or other costs incurred.
7. Complete or partial deliveries prior to the scheduled delivery date are permitted as long as it does not present an undue burden for the buyer. We shall also be entitled to render partial deliveries during a period of grace, with the result that the Buyer shall set a new period of grace with regard to the rest of the delivery.

**V. Transfer of risks and acceptance**

1. The risk shall pass to the Buyer upon shipment of the goods, even in the case of partial deliveries. This shall also apply where we have chosen the packaging, mode of shipment and carrier to the best of our knowledge, or delivered the goods ourselves.
2. Even in the case of carriage-paid shipments, the risk shall pass to the Buyer as soon as the consignment leaves the supplier's works. However, if shipment is delayed as a consequence of circumstances for which the Buyer is responsible, the risk shall be transferred to the Buyer on the day the goods

- are reported to be ready for shipment.
3. At the Buyer's request, we will take out transport insurance at its expense

## VI. Reservation of title

1. The delivered goods shall remain our property until all currently existing and future accounts receivable resulting from the business relationship with the Buyer have been settled, irrespective of the legal grounds. The Buyer must notify us immediately in the event of seizure or confiscation of the conditional goods by a third party. Any resulting intervention costs shall be for the Buyer's account.
2. Assertion of our right of ownership and retention of title on our part shall not be construed as withdrawal from the agreement. On the contrary, in addition to our right to demand the return of our property, we shall also be entitled to our other rights resulting from the sales contract, in particular to the compensation of damages and lost profit.
3. The Buyer shall be revocably entitled to resell the delivered goods in the ordinary course of business. The Buyer here and now assigns to us all claims and subsidiary rights accruing to it from resale in the amount of the value of the conditional goods. The assigned receivables serve to secure all claims arising pursuant to Para. 1.
4. Should we so request, the Buyer shall be under obligation to notify us of the assignment to third parties for payment purposes and to furnish us with the information and documents necessary for asserting our rights.
5. The Buyer shall be permitted to process, reshape and commingle the conditional goods with other objects. Such processing or reshaping shall take place on our behalf. We shall be entitled to direct ownership of the newly-created item resulting from processing on a proportional basis according to the value of the delivery goods. The processed or reshaped items shall be regarded as conditional goods.
6. In the event of processing, reshaping or commingling with other objects not belonging to us, we shall be entitled to co-ownership of the newly-created item in the amount of the ratio of the value of the processed, reshaped or combined conditional goods to the value of the new item. The portion of the claim assigned to us assigned shall take priority over the remaining claims.
7. If our conditional goods are combined with real estate or movable objects by the Buyer, the Buyer shall also assign any claims accruing to it to us as remuneration for the commingling, including all subsidiary rights by way of security without a further declaration being necessary. With regards to the amount of the assigned claim, the preceding paragraph shall apply mutatis mutandis.
8. If the securities assigned to us exceed the value of the claims which they are to secure by in excess of 20%, we shall undertake, insofar as said claims have not already been settled, to release the securities above and beyond this amount.
9. The Buyer shall not be entitled to dispose of the conditional goods in any way other than described above; this shall in particular include their pledging or assignment as security. The Buyer shall notify us immediately of any impairment of the rights to the items owned by us.
10. If Buyer falls into default on payment or breaches one of the duties resulting from the agreed retention of title, the entire residual debt shall be due for immediate payment. In such cases we shall be entitled to demand the return of the goods and to collect them from the Buyer. The Buyer shall have no right to possession

## VII. Software

1. Following payment of a license fee, the Customer shall receive a non-exclusive, nontransferable and indefinite right to use Langmatz software of all kinds including the accompanying documentation. Langmatz shall remain the holder of the copyright as well as all other industrial property rights.
2. Copies may only be made for back-up purposes. Copyright indications may not be removed.
3. The software may not be passed on to third parties without our permission. When handing over software for the purpose of resale, it must be ensured that this condition is acknowledged by the third party. The software may not be modified.

4. In the event of a breach of these conditions, the Buyer shall be obliged to pay a contractual penalty amounting to ten times the contract value. This contractual penalty may not be offset against possible future claims for damages.
5. The software and the accompanying documentation are to be returned without delay upon request.
6. The above provisions shall not apply for exclusively customer-specific application programs developed on the basis of specification provided by the Buyer. Following the complete payment of the purchase price, Langmatz shall transfer to the Buyer the exclusive right of use, unlimited in space and time.

## VIII. Warranty

We guarantee that our products are free of material defects and that they display the guaranteed properties at the time of the transfer of risk pursuant to the statutory provisions of sales law provided that:

1. All parts or services that become unusable or whose usability is significantly impaired during the statutory warranty period following the transfer of risk owing to circumstances that occurred prior to the transfer of risk, in particular owing to defective design, poor materials or faulty construction shall be repaired or rendered again by us free of charge.
2. Written notice of such defects must be sent immediately following discovery, however not later than 8 days following delivery. If written notice of defects is not received by us within this period, the delivery shall be regarded as having been accepted. The absence of guaranteed properties shall also be regarded as a defect.
3. If the complaint is justified, we shall bear the cost of the replacement part as well as shipment. All other costs shall be borne by the Buyer.
4. The Buyer shall afford us the time and opportunity required to carry out the repair or replacement delivery.
5. The Buyer shall only be entitled to rescind the sale or reduce the purchase price if the repair or replacement delivery is not carried out in time following a reminder to this effect or ultimately fails.
6. Further claims on the part of the Buyer, in particular a claim to compensation for damages not sustained by the delivery item itself, shall be excluded unless there is evidence that we acted with intent or gross negligence. This shall not apply in the case of contractually-guaranteed properties. Liability shall be limited in all cases to the cover provided by our comprehensive general liability insurance. Upon request, we can send the Buyer a photocopy of the insurance policy.
7. In the case of third-party products, our liability shall be secondary to that of the subcontractor and shall only apply following the fruitless assertion of claims against the respective subcontractor. To this end, we hereby assign all claims for damages, guarantee and warranty on our part against the respective subcontractor to the Buyer, who accepts said assignment. In the event of a warranty claim, we shall be under obligation, to disclose the identity of the subcontractor to the Buyer.
8. We shall not otherwise accept any liability for damages caused by the following: Inappropriate or improper use or storage, incorrect assembly by the Buyer or third parties, unauthorized attempts to repair and/or modify the goods, natural wear and tear, incorrect or careless treatment, chemical influences or electrical influences, etc. that are beyond our control, as well as the case of non-contractual use and non-compliance with our operating instructions and information material.
9. All details provided by us pertaining to the delivery item and the designated use, e.g. regarding dimensions, weights, hardness, practical values, temperatures etc. merely represent descriptions and do not constitute guaranteed properties. They represent non-binding approximate values, and shall only be deemed to be warranted to the extent that they correspond to the samples manufactured by us and tested and subsequently released by the Customer for the specific purpose. Insignificant deviations shall not substantiate any warranty claims whatsoever.
10. The above limitations of liability shall apply mutatis mutandis for advisory services or suggestions, as well as all claims on the part of the Buyer resulting from the breach of contractual secondary obligations.
11. We shall provide the following warranty for software products:

Langmatz software has been properly duplicated. Langmatz software runs on hardware products specified by Langmatz.

12. Warranty is provided in the form of replacement delivery. Should this ultimately fail, despite several attempts, and the setting of a reasonable period of grace in each case, the Customer shall be entitled to rescind the sale or reduce the purchase price. For the rest, no warranty is provided as to the faultlessness of the software and its data structure, unless this was agreed to the contrary in writing. In particular, we shall not accept any liability for the loss of data, unless we caused their destruction wilfully or through gross negligence. In this case, liability shall be limited to the costs required to reconstruct the data, provided that backups of the data had duly been prepared. Our liability shall be limited in all cases to the direct loss to the exclusion of liability for consequential losses, in particular lost profit.
13. Rights of recourse and recovery claims pursuant to § 478, 479 German Civil Code (BGB) shall only exist if and to the extent that the claim asserted by the consumer was justified and does not exceed the statutory limits – not however for goodwill agreements that were not agreed with us – and shall require compliance with certain duties on the part of the party entitled to recourse, in particular the observance of the notification duties.

#### **IX. Impossibility, default, adaptation of contract**

1. The Buyer may withdraw from the agreement if we are unable to render the entire performance prior to the transfer of risk. Should we have to bear the burden of the impossibility of the agreement, the purchaser's claim for damages shall be limited to 10% of the delivery value of that part of the delivery that cannot be appropriately used due to the impossibility. This limitation is not applicable for mandatory liability in cases of wilful intent, gross negligence or on account of injury or damage to life and limb, body or health held against us.
2. The Buyer shall be entitled to rescind the sale if we should fail to meet our obligations and if the Buyer grants us a reasonable period of grace and we fail to meet it.
3. We shall be entitled to withdraw from the agreement or demand compensation in damages owing to failure of performance after setting a period of grace of 10 days. A period of grace need not be set if the Buyer seriously or irrevocably refuses acceptance or is obviously unable to pay the purchase price within this period.
4. The agreement shall be adapted accordingly in the event of unforeseen events as defined in section IV, insofar as they are of economic significance or change the content of the services or affect our business operations, and in the event of impossibility of performance subsequently emerges.
5. Insofar as this is unacceptable from an economic perspective, we shall be entitled to withdraw from the agreement.

#### **X. Claims for damages**

1. Claims for damages and the reimbursement of expenses of the Buyer – irrespective of their legal grounds, including claims resulting from tortious acts or for the compensation of deficiency or consequential losses owing to culpable breach of contractual secondary obligations or lost profit – are excluded. This shall not apply in so far as our executives or vicarious agents acted with intent or gross negligence or caused loss of life, physical injury or damage to health, in the event of liability owing to the breach of a cardinal contractual obligation or a given compulsory liability according to product liability law. In the event of breaches of cardinal contractual obligations that are not attributable to intent or gross negligence, or involving loss of life, physical injury or damage to health or a guaranteed quality, liability shall be limited to the foreseeable damages that are typical for this kind of agreement.
2. In the case of constructions or production according to binding instructions of the Buyer, the latter shall exempt us from any and all third-party claims under patent law or such like.
3. In the case of third-party products, our warranty shall be limited to the assignment of the corresponding claims, which we are entitled to assert against the supplier of the third-party product, unless the product liability law provides for further liability in terms of manufacturer's liability.

4. The Buyer must notify us immediately of any accidents while using the goods delivered by us. The Buyer shall where possible retain the goods in question or request their return from its end customer and place it at our disposal upon request. If the Buyer culpably breaches these obligations, it alone shall bear the damage incurred and compensate any disadvantages suffered by us.

#### **XI. Place of jurisdiction**

1. If the Customer is a merchant, corporate body under public law or a special fund under public law, or has its place of residence or registered place of business outside of the Federal Republic of Germany, all disputes arising from this contractual relationship shall be settled before the competent court having jurisdiction at our registered place of business in Garmisch-Partenkirchen.
2. We shall, however, also be entitled to bring action against the Customer/Buyer at its registered place of business.

#### **XII. Applicable law**

The contractual relationship between us and the Customer/Buyer shall be governed by the law of the Federal Republic of Germany to the exclusion of all bi- and/or multilateral agreements regarding the purchase of movable goods, in particular excluding the United Nations convention on contracts for the international sale of goods dated 11.04.1980 (CISG).

#### **XIII. Partial invalidity**

1. The invalidity or legal inoperability/inadmissibility of parts of our terms of sale shall not render the terms of sale invalid in their entirety.
2. In the event of invalidity, the provision(s) in question are to be replaced by such valid provision(s) that come as close as possible to the intended economic purpose.