

# **General Conditions of Purchase for Heinrich Strunz GmbH (hereinafter also referred to as LAMILUX)**

## **I. General**

1. Unless expressly agreed otherwise in writing, these conditions also apply to ongoing business relationships without a specific need to mention or refer to them, also particularly in the case of call or follow-up orders made verbally or over the telephone. There is also no need to refer to these conditions of purchase again for future orders.
2. The application of any different terms and conditions of business of the opposing party is excluded for this order and all follow-up orders. The validity of such differing conditions is hereby expressly rejected. They are not part of this agreement, even if we do not expressly object to them in correspondence.
3. If the business relationship is based on a contract for work and services, our General Conditions of Contracts for Work and Services also apply.
4. In accordance with the provisions in the German Federal Data Protection Act, the Supplier is informed that LAMILUX collects and uses the Supplier's personal and company-related data that it requires to handle its business relationships
5. Our Conditions of Purchase apply to companies only in accordance with Section 14 of the German Civil Code within the meaning of Section 310, Paragraph 1, Clause 1.

## **II. Costs for sales quotes and visits**

As a general rule, we require a binding sales quote from you in response to our requests for quotes at no charge. We do not offer any payment for visits or drafting of quotes and projects, unless our Purchasing Department expressly confirms such payments in writing beforehand

## **III. Orders and conformation of orders, proofs of origin**

1. Orders placed by LAMILUX are only valid if they are in writing and are undersigned by a person authorised to represent LAMILUX. Verbal agreements and those over the telephone require written confirmation from the Purchasing Department to be binding. In the case of orders placed verbally or over the telephone, the orderer is to be named on all papers which refer to such an order. Orders which are placed electronically do not require a signature. All correspondence, in particular order confirmations, delivery notes and invoices, must include our order number (format: 2010-00001).
2. The Supplier must confirm the order in writing within a reasonable period of time. In the case of orders at short notice, this shall be at least one working day before delivery. The order confirmation must contain all details of the order. Any variations to orders placed by LAMILUX are only regarded as approved if LAMILUX confirms them in writing. We are entitled to cancel at any time or make changes to components of the contract at no extra charge until the written order confirmation is received.
3. On accepting an order, the Supplier undertakes to ensure that customs authorities are able to inspect documentary evidence of origin and supplier declarations. The Supplier also undertakes to provide at no extra charge the information required for this purpose as well as any necessary official certificates (information sheets). If the goods supplied have their origin within the EU, certification is provided by sending a Supplier's declaration in compliance with EC Directive 1207/2001 dated June 11, 2001. If the goods supplied have preferential origin, a EUR 1 movement certificate or a declaration of origin on the invoice will suffice. The Supplier also undertakes to compensate LAMILUX for any losses incurred if the declared origin is not recognised by the relevant authorities.

#### **IV. Delivery period**

1. The agreed delivery periods are fixed deadlines for Suppliers and must be complied with. These periods do not ever include a grace period. The stated delivery date is always the date when the goods are required to be delivered to LAMILUX. If a calendar week is agreed as a delivery deadline, the last delivery date is the Friday of the week in question.
2. LAMILUX is entitled to postpone acceptance dates or withdraw from the contract in the case of force majeure events, strikes, lockouts and breakdowns of any type whatsoever and for whatever reason as well as other unforeseen events which make it very difficult for LAMILUX to accept the ordered goods, in particular stagnation in sales. The Supplier is not entitled to make claims for damages in this respect.
3. Without prejudice to LAMILUX's legal or aforementioned agreed rights, the Supplier is obliged to inform LAMILUX immediately in writing of any delays in deliveries, stating the reasons and the estimated period of delay.
4. If the delivery period is exceeded, the Supplier is in default with no reminder required. Without prejudice to our legal rights, we are entitled to demand a contractual penalty of 0.2% per working day after the deadline, although this amount will not exceed 5% of the net total for the order. The contractual penalty can also be applied after the delivery is accepted and until final payment without LAMILUX needing to express reservation when goods are accepted. Any rights to assert further claims for compensation, particularly with regard to costs due to stoppages in production, expressly remain unaffected by this provision.

#### **V. Delivery, delivery note and invoice**

1. Place of delivery is the recipient's address stated in the order. The Supplier is not entitled to make partial deliveries, unless such deliveries are necessary due to logistics or technical reasons. The Supplier must give notice of such deliveries beforehand. Overdeliveries and short shipments are not permissible.
2. The delivery is at the Supplier's risk and expense, unless expressly agreed otherwise in writing. Costs particularly include all additional expenses for services, freight, transport, any insurance and any other additional costs. Shipments for which no freight-paid delivery has been agreed are to be shipped by the cheapest route at all times. No extra costs incurred as a result of non-compliance with these specifications and no costs for carriage and similar at the place of dispatch will be accepted.
3. The use of subcontractor companies must be agreed with LAMILUX in advance and must be approved by LAMILUX.
4. Deliveries of goods in vehicles are received Monday to Thursday between 7 a.m. and midday and 1 p.m. and 3.30 p.m., and Fridays between 7 a.m. and 12.30 p.m. Deliveries not accompanied by full delivery papers will be rejected until the corresponding papers are submitted.
5. The freight carrier must report to the incoming goods department at the respective works only. This department is clearly signposted as 'Warenannahme' (incoming goods). The freight carrier is expressly not permitted to enter the works directly and unload unaccompanied. A flat rate charge will be invoiced in the event of non-compliance.
6. If deliveries are requested for a different address to our own, the delivery note is to be sent to the delivery address and a copy to LAMILUX.
7. A single copy of invoices is to be sent to LAMILUX separately from the shipment.
8. Delivery papers and invoices must contain the LAMILUX order number. The invoicing party's tax number is to be included in all invoices. Incomplete or incorrect invoices will be returned to the invoicing party without being processed.

9. Invoices which are not submitted in correct form (i.e. not error-free, not complete, not in due form or not auditable) are not considered received until we have received a corrected invoice. Collective invoices are not accepted.
10. Unless other requirements are specified in the order, deliveries and services are to be performed in accordance with the latest standards in expertise, technology and science and with applicable statutory regulations, specifications and guidelines issued by public authorities, occupational insurance associations and professional associations in the Federal Republic of Germany, the EU and the country of destination. If EN, DIN, VDE, VDI, DVGW or similar applicable industrial standards are relevant, any goods supplied are to comply with such standards. German Construction Contract Procedures' General Technical Contract Conditions are also applicable.

## **VI. Prices**

1. The agreed prices are fixed prices for delivery to the receiver's address; they apply free of charges for carriage, packaging and duties. Prices which are subject to change are not accepted and are hereby expressly rejected.
2. If it should be necessary to place orders without a prior agreement on price, the prices for the previous order apply in the case of an ongoing business relationship, unless the price list valid at the time when the Supplier fulfils the order is more favourable for LAMILUX.

## **VII. Payment Conditions**

1. The place of payment for all orders is Rehau, Germany.
2. Unless agreed otherwise, after the goods or invoice are received, invoices are settled with a 4% discount when paid within 20 days, a 3% discount when paid within 30 days, or paid 60 days net, after a delivery which is free of defects, in accordance with the contract, is not objected to or is accepted, and a complete, error-free, auditable, correctly formulated invoice is submitted.
3. Each payment is made with the reservation of LAMILUX's rights with regard to any possible defects. LAMILUX is entitled to withhold payment completely or in part until any defects are remedied or any other counterclaims arising from the business relationship as a whole have been settled. Payment does not imply acceptance, completion or waiving of liability for defects; this also applies to the delivery receipt when the goods are accepted.

## **VIII. In-production inspection, notification of defects**

1. If relevant, the technical supply conditions, the special agreements regarding the purchase of systems, machines and devices and for secondary contract work, control instructions and any quality control specifications from LAMILUX are an integral part of the contract.
2. The Supplier will guarantee by means of their in-factory quality control that their deliveries comply with LAMILUX's technical supplier conditions. The Supplier undertakes to produce records of the tests that they have carried out and to file all test results, measurement readings and quality control findings. LAMILUX is entitled to inspect these documents at any time and make copies.
3. LAMILUX must report any obvious defects to the Supplier immediately, within five working days of goods being received at the latest. Concealed defects must be reported within seven working days after they are detected. In the case of concealed defects which LAMILUX reports in a customer complaint, the time period for notifying the Supplier is dependent upon previous examination on our part within a reasonable period of time. Provisions under Section 377 of the German Commercial Code are deviated from in this respect.
4. In the case of larger delivery quantities, LAMILUX will limit goods inspections to reliable random samples. Defects which are not detected during such tests are regarded as unseen.

5. If a prototype is submitted, the Supplier is to guarantee the prototype's characteristics with regard to materials and machine processing for all future deliveries and subsequent deliveries.

## **IX. Liability for defects and warranty**

1. In line with statutory regulations, the Supplier guarantees that, at the time of transfer of risks, the supplied goods are free of any faults in materials or manufacturing defects which considerably diminish the goods' suitability for use. The Supplier also affirms that the goods have any characteristics which have been expressly guaranteed to us in writing.
2. If defects are detected in a purchase transaction before or during the transfer of risks or appear during the warranty period, the Supplier is required at our discretion either to remedy the defects or supply replacements at their own expense. We reserve all rights granted to us under law. These purchase conditions also apply to replacement deliveries.
3. If LAMILUX requires rectification of defects or a replacement delivery and the Supplier fails to rectify defects or deliver replacements within the agreed time, we are entitled to withdraw from the contract completely or in part without granting a period of grace and without compensation. The same applies if the Supplier refuses to rectify defects or deliver replacements, or declares that they are unable to take such action within a reasonable period of time.
4. The Supplier grants a warranty period of 36 months. This period starts when risk is transferred, unless anything different is agreed. A five-year warranty period applies to all construction work or goods which are destined for construction works.
5. Returned, defective goods are the Supplier's responsibility. Goods are returned at the Supplier's expense and at their risk.
6. The Supplier will expressly provide a three-year warranty for its consignments and services starting from the transfer of risk, guaranteeing that, during the warranty period, their goods and services:
  - a) will be free of defects of any type
  - b) are perfectly suitable for their designated or agreed purpose
  - c) will feature and maintain the contractually agreed or guaranteed propertiesIf the Supplier has envisaged or offered a longer or more extensive warranty, then the Supplier's longer or more extensive warranty applies.
7. In the event of a warranty claim, LAMILUX is entitled in each and every case and at its own discretion to reduce the payment, withdraw from the contract, request a subsequent improvement or supply of a defect-free replacement, including compensation for installation and disassembly costs if supplementary performance has failed. LAMILUX may also claim compensation for damages instead of receiving the service. LAMILUX's rights and claims due to the fault remain unaffected in the event of conclusion of the contract, positive violation of contractual duty, impermissible activity or similar. If subsequent improvement or a replacement delivery is supplied, the aforementioned warranty period for the entire delivery item is increased by the number of days on which the system or the device could not be used for more than 12 hours. The Supplier will exempt LAMILUX from any claims under law regarding liability for defective products.
8. LAMILUX's right to recourse against the Supplier due to claims regarding defects according to sections 478 and 479 of the German Civil Code (*§478 und §479 BGB*) remain unaffected. The Supplier will exempt LAMILUX from any claims from LAMILUX's customers with regard to warranties. The Supplier releases LAMILUX of any claims from third parties as a result of defects in title.
9. If recall or repair service campaigns are launched as a result of problems with the Supplier's delivery items, the Supplier will bear all the costs incurred as a result of the recall or repair service campaigns if the problems are due to reasons under the Supplier's control. This also applies to costs which LAMILUX is invoiced by its customers.
10. The Supplier also guarantees that the goods and services which they supply meet our requirements, feature the agreed properties and are suitable for the contractually required use. In particular, non-regulated construction products subject to the German Building Rules List or the products' characteristics must meet local building law usage list requirements in each and every case. Unless agreed

otherwise, German Construction Contract Procedures apply. Particularly important in this respect are general technical approvals and general appraisal certificates regarding fire behaviour, construction product quality, ageing resistance, corrosion protection, heat insulation and noise insulation. The German Institute of Building Technology's (DIBt) current Building Rules List should always be taken as a basis for designs. The delivery items and services should be provided and equipped in such a way that they comply with all applicable statutory and local authority regulations, including those under the German Equipment Safety Act and those regarding environmental protection. They must also meet accident prevention regulations.

## **X. Transfer of Risk**

The risk of accidental deterioration and perishing of goods is transferred to LAMILUX at the earliest when the unloading of goods or the service is completed at LAMILUX's facilities or at the designated delivery location. This also applies if LAMILUX bears shipping costs in an individual case or the delivery is ex works.

## **XI. Business and Product Liability Insurance**

The client undertakes to acquire a business and product liability insurance policy with flat-rate coverage of at least 5 million euros for personal injury and damage to property. Notwithstanding Clause 7.9 of the General Liability Insurance Conditions, the policy must also cover injury and damages abroad. The supplier must inform LAMILUX of any exclusions of coverage for the United States and Canada. The insurance policy must include coverage of so-called product liability insurance in line with the German Insurance Association (GDV) Model 2008, including insurance against personal injury and property damage due to failure to provide the agreed characteristics of the supplied item, Clause 4.1, Product Liability Insurance; composition, mixing and processing of the supplied products, Clause 4.1, Product Liability Insurance; further machining and processing, Clause 4.3, Product Liability Insurance ; disassembly and installation costs, Clause 4.4 Product Liability Insurance ; production spoilage due to machines, Clause 4.5, Product Liability Insurance, and a proviso regarding costs for testing and grading, Clause 4.6, Product Liability Insurance. The amount covered for damages according to Clauses 4.2 to 4.6 regarding Product Liability Insurance must also equal at least 5 million euros. Upon request, the Supplier must provide LAMILUX with a suitable certificate of insurance from the insurer.

## **XII. Non-disclosure, industrial property rights**

1. The Supplier is obliged not to disclose trade secrets or reveal to third parties all commercial or technical information not publicly known which they have acquired as a result of a visit or fulfilment of the order. This non-disclosure also applies to all drawings, orders and business relationships. The Supplier will subject the employees who the Supplier entrusts with fulfilling the order to non-disclosure agreements and will inform them of their obligations under Sections 17 and 18 of the German Unfair Competition Act (§§ 17, 18 UWG).
2. The Supplier is liable in the event that third party rights are infringed in connection with the supply and use of their delivery items if this is due to reasons under the Supplier's control. The Supplier undertakes to release LAMILUX of any claims for compensation from third parties.
3. Manufacturing items such as models, prototypes, casts, tools, setting jigs, drawings and similar which LAMILUX provided to the Supplier or which the Supplier manufactured based on information provided by LAMILUX must not be sold, pledged or transferred for any other purpose or used in any way for third parties. Manufacturing items and similar become LAMILUX's property when the Supplier acquires or manufactures them. Instead of handing over such items to LAMILUX, the Supplier keeps them safe on LAMILUX's behalf at no extra charge. The Supplier must maintain, repair and replace manufacturing items at their own expense where necessary for the agreed service life.
4. LAMILUX may impose a penalty for each incident which involves non-accidental non-compliance with obligations under provisions regarding non-disclosure. The amount charged is fixed at LAMILUX's reasonable discretion and, in the event of a dispute, will be subject to review by a court which has relevant jurisdiction for such matters. The right to further compensation for losses and to apply for injunctive relief is reserved.

### **XIII. Final Clauses**

1. The Supplier is not entitled to assign payments receivable from LAMILUX to third parties or allow third parties to collect such payments without prior consent. If the Supplier assigns its payments receivable from LAMILUX to a third party in contravention of Clause 1 without prior consent from LAMILUX, the assignment of payment still takes effect, although LAMILUX may, at its discretion, pay the Supplier or the third party with discharging effect.
2. No rights of liens of any type whatsoever, no rights to the contractor's liens or similar come into existence. The client does not recognise any rights to retention of title or any other security interests of any form whatever their content, effect and coverage may be and hereby expressly rejects any such rights. We recognise basic retention of title. We are entitled to use the delivered goods in the regular course of business and resell them without any restriction.
3. LAMILUX is authorised to off-set or enforce rights of retention in the event of any due or non-due receivables from the Supplier which LAMILUX is entitled to. Off-setting counterclaims or exercising a right to retention against payments receivable from LAMILUX is only permitted if the counterclaim is recognised in writing or has been legally established.
4. Legal relationships between the Supplier and LAMILUX are subject to German law to the exclusion of the provisions in the UN Convention on Contracts for the International Sale of Goods (CISG) and Private International Law procedural rules.
5. If insolvency proceedings or similar extrajudicial proceedings are initiated against the Supplier with regard to their assets, LAMILUX is entitled to withdraw from the part of the contract which has not yet been fulfilled.
6. If the contractual partner is a trader, the place of jurisdiction for any disputes which may arise is Hof District Court, irrespective of the sum in dispute. However, LAMILUX is also entitled to bring an action against the Supplier in any other location where a place of jurisdiction is justifiable in accordance with general provisions under law.
7. Should any individual parts of these General Conditions of Purchase be or become void, the validity of the remaining provisions remains unaffected thereby.

Date: 10/11