

# General terms and conditions of sale and delivery

## 1. General

1.1 These general terms and conditions of sale and delivery are binding, provided that their applicability is specified in the offer or in the order confirmation. Different conditions stipulated by the customer are valid only in so far as they are expressly accepted in writing by the supplier.

1.2 All agreements and declarations with legal effect by the contracting parties are binding only if they are made in writing.

## 2. Offers and conclusion of contract

2.1 Offers by the supplier are made without obligation.

2.2 The contract is not deemed to have been concluded until the supplier has confirmed its acceptance in writing after receipt of an order (order confirmation).

## 3. Scope of supply

3.1 The scope and performance of deliveries and services are determined by the order confirmation. Materials or services which are not stated therein are invoiced additionally.

3.2 For series manufacture, the supplier reserves the right to make deliveries, which are up to 10% below or above the stipulated quantity. Moulds or tools manufactured by the supplier remain his property.

## 4. Plans and technical documents

4.1 All plans and technical documents remain the intellectual property of the supplier and may be neither copied nor duplicated nor made available to third parties in any manner whatsoever nor used otherwise than for the purpose for which they were supplied to the customer. In particular, the customer shall not use plans and technical documents to make products or parts thereof.

4.2 Dimensioned drawings, wiring diagrams, illustrations and indications of weights, together with other information provided in price lists and on printed matter, are not binding. Binding details will be given in particular cases on request.

## 5. Regulations in the country of destination

5.1 At the latest when the order is placed, the customer must call the supplier's attention to the regulations and standards which apply to the performance of the deliveries and services, their operation and to illness and accident prevention in the country of destination.

5.2 If the supplier receives no such indications from the customer at the latest when the order is placed, he may assume that the deliveries and services offered by him satisfy the regulations and standards in the country of destination. Special protection devices are only supplied if that is expressly agreed.

## 6. Prices

6.1 Unless otherwise agreed, the supplier's prices are quoted net ex-works in Swiss francs, exclusive of packaging, transport, insurance, any goods sales taxes, customs duties, charges or other levies, costs of assembly, installation and commissioning. Where the supplier incurs costs, which are not included in the price, the customer must refund them.

6.2 If the costs on which the calculation is based increase between the time of conclusion of the contract and acceptance, the supplier is authorized, until completion of the order placed with him, to increase the costs stated in the order confirmation accordingly.

6.3 A reasonable price adjustment will also be made if

- the delivery period is subsequently extended for one of the reasons stated in section 8.2;
- the nature and scope of the agreed deliveries or services change or
- the material or performance undergo changes because the documents supplied by the customer do not reflect the actual circumstances or were incomplete.

6.4 The packaging will be invoiced separately by the supplier and cannot be taken back. However, if it is identified as the property of the supplier, it must be returned carriage-paid by the customer to the place of origin.

## 7. Payment terms

7.1 For tubular heating elements, electrical heating devices and spare parts, the payment is 30 days net from the date of the invoice, unless otherwise agreed in writing. For electrical heating systems, payments shall be made as follows: 30% net with the order confirmation, 60% net on dispatch and 10% net following final acceptance, however, 3 month after delivery at the latest, if final acceptance is delayed due to reasons attributable to the customer. All payments are due within 10 days from the date of invoice, unless otherwise agreed in writing.

7.2 Payments shall be made by the customer at the supplier's domicile without deducting any discount, costs, tax charges, customs duties, fees or other charges of any kind whatsoever. Any different payment terms must be specially agreed.

7.3 The payment dates must still be respected if the dispatch, transport, assembly, installation, commissioning or acceptance of deliveries and services are delayed or rendered impossible for reasons beyond the control of the supplier or if insignificant parts are missing or subsequent work, which does not prevent use of the deliveries, proves to be necessary.

7.4 In the event of arrears of payment, the supplier reserves the right to suspend planned deliveries immediately and is entitled to charge interest on the arrears at the rate of 6% per annum without prior warning.

## 8. Delivery lead time

8.1 The delivery lead time begins as soon as the order confirmation and the product specification have been signed. It shall be deemed to have been respected if readiness for dispatch has been notified to the customer before its expiry.

8.2 The delivery lead time shall be appropriately extended:

- if the details needed for performance of the order do not reach the supplier in good time or are subsequently amended by the customer;
- if payment dates are not respected, documentary credits are opened belatedly or necessary import licences do not reach the supplier in good time;
- if obstacles are encountered which the supplier cannot avert despite the exercise of due diligence, regardless of whether such problems affect the supplier, the customer or a third party. Such obstacles include acts of God, for example epidemics, mobilization, war, rebellion, substantial breakdowns in the works, accidents, industrial disputes, official actions or omissions, natural events;
- In the event of late or defective delivery of the required raw materials, semi-manufactured or manufactured products or rejection of important work pieces.



Thermal Solutions

# General terms and conditions of sale and delivery

- 8.3 The customer is entitled to require compensation for late deliveries in so far as such late delivery was demonstrably the fault of the supplier and the customer can prove prejudice suffered as a consequence of such late delivery. If the customer is assisted by a replacement delivery, the entitlement to any compensation for late delivery shall lapse.
- The compensation for late delivery shall amount to not more than ½% for each full week's delay, subject to a maximum of 5% calculated on the contractual price of the part of the delivery, which is late. The first two weeks delay give no entitlement to compensation for late delivery.

When the maximum compensation for late performance has been attained, the customer shall set an appropriate additional period to the supplier in writing to effect performance. If this additional period is not respected for reasons attributable to the supplier, the customer is entitled to decline acceptance of the part of the delivery, which is late. If partial acceptance is economically unreasonable, he is entitled to withdraw from the agreement and to claim the refund of payments already made against the return of deliveries already made.

If, instead of a delivery lead time, a specific date is agreed, this shall be equivalent to the last day of a delivery lead time.

The customer shall have no rights and claims other than those expressly stated in Section 8 on grounds of late delivery or performance. In particular, he shall not be entitled to claim further compensation or withdraw from the agreement over and above the compensation for late performance.

## 9. Ownership, benefit and risk, transport, insurance

- 9.1 The delivered goods remain the property of the supplier until payment has been made in full. The customer is required to take the measures necessary to protect the property of the supplier and to facilitate measures, which the supplier wishes to take to protect his property. In particular, he authorizes the supplier, with the conclusion of the agreement, to cause the reservation of ownership to be registered or recorded, at the expense of the customer, in public registers, books etc. in compliance with the relevant domestic legislation and to perform all the formalities required for this purpose.

The customer shall maintain the delivered objects at his own expense for the duration of the reservation of ownership and insure them in favour of the supplier against theft, breakage, fire, water damage and other risks. In addition, he shall take all necessary measures to ensure that the supplier's reservation of ownership is neither restricted nor terminated.

- 9.2 The benefit and risk shall pass to the customer when the consignment leaves the supplier's works, even if the delivery is made by special agreement, inclusive of assembly, installation and commissioning. If dispatch is delayed for reasons for which the supplier is not responsible, the consignment shall be stored for the account and at the risk of the customer.
- 9.3 Particular requests concerning dispatch, transport and insurance shall be notified in good time to the supplier. Transport shall be effected for the account and at the risk of the customer. Complaints in connection with dispatch and transport shall be notified by the customer without delay to the last carrier on receipt of the delivery of the freight documents.
- 9.4 Insurance against prejudice of any kind whatsoever shall be the responsibility of the customer. Even if, by special agreement, this insurance is to be arranged by the supplier, it shall be deemed to have been taken out on behalf of the customer.

## 10. Testing and acceptance of the delivery

- 10.1 The supplier shall test the deliveries and services in the usual manner before dispatch. If the customer seeks more far-reaching tests, these shall be specially agreed and paid by the customer.
- 10.2 The customer shall test the delivery within 7 days of its receipt and notify all defects in writing without delay to the supplier. If he fails to do so the deliveries and services shall be deemed to have been approved.

## 11. Warranty and liability

- 11.1 The supplier guarantees that the products delivered by him are free from manufacturing and material faults.
- 11.2 Assured properties are only those, which are stipulated in the valid product specification signed by both parties. The assurance applies at the latest until the expiry of the warranty period.
- 11.3 The supplier undertakes, for a period of 24 months from the date of the invoice or from the date of readiness for dispatch, to repair or replace, at its own discretion, as quickly as possible all the parts which are demonstrably damaged or unusable because of poor material, defective design or poor workmanship.
- 11.4 The warranty shall expire prematurely if the customer or third parties perform inappropriate modifications or repairs or if the customer, if a defect has occurred, fails to immediately take all appropriate measures to reduce prejudice and does not give the supplier an opportunity to remedy the defect.
- 11.5 The warranty and liability of the supplier are confined to prejudice, which has demonstrably occurred because of poor material, defective design, poor workmanship or for other reasons for which the supplier is responsible.
- 11.6 The customer shall have no rights and claims other than those expressly stated in Article 11.3 on grounds of defects in materials, design or workmanship and the absence of assured properties.
- 11.7 All further claims by the customer on grounds of defective delivery, in particular for compensation and withdrawal from the agreement, are excluded.

## 12. Applicable law

This agreement shall be governed by Swiss law.

## 13. Place of jurisdiction

**The place of jurisdiction shall be the place where the supplier has his registered office.** The supplier shall, however, be entitled to take legal proceedings against the customer at the place where the latter has his registered office.

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**Thermal Solutions**

Lükon Thermal Solutions AG · CH-2575 Täuffelen · Hauptstrasse 63 · Postfach 144  
Telefon +41 (0)32 396 06 06 · Telefax +41 (0)32 396 06 05 · <http://www.lukon.ch> · e-mail: [info@lukon.ch](mailto:info@lukon.ch)