

General Terms and Conditions LAMBRECHT meteo GmbH Friedlaender Weg 65-67, 37085 Goettingen, Germany

Translation of the Revised Version 11.01.2022

[Important Notice: This English translation is provided for your convenience only. Our General Terms and Conditions in their authentic German language version are incorporated into all contracts concluded. The agreement and its terms accordingly shall be construed according to German law. If the English legal meaning differs from the German legal meaning of this agreement and its terms, the German meaning shall prevail.]

I. Conclusion of Contract

1. Scope of Application of the General Terms and conditions (GTC)

All national and international sales and services of LAMBRECHT meteo GmbH shall be governed by the General Terms and Conditions (hereinafter „GTC“) set forth below. These GTC shall also apply to all future transactions with customers, even without explicit reference in the respective contracts.

2. Deviations from GTC, conflicting GTC

a) A waiver of application of one or all provisions of these GTC or a deviation from them shall only become effective provided that the LAMBRECHT meteo GmbH has agreed to such alteration in writing in its order confirmation. Conflicting general terms and conditions of the customer will under no circumstances be recognised. This non-acceptance applies even if the customer's general terms and conditions claim exclusive application or are implied in any later declaration of intent by the customer, and again, an objection to their application has not again been explicitly expressed.

b) In case the contract is executed subject to an applicable law which does not give effect to some or all of the General Terms and Conditions of LAMBRECHT meteo GmbH, all non-conflicting clauses of the contracting parties' general terms and conditions remain applicable and shall take precedence over statutory provisions otherwise applicable. In any case transfer of ownership in the merchandise delivered by LAMBRECHT meteo GmbH is subject to a reservation of title until receipt of the full purchase price.

3. Offers, Conclusion of Contract, Alteration of Contract

a) All offers made by LAMBRECHT meteo GmbH are without engagement and may be revoked at any time. A contractual agreement has binding effect only after receipt of the written order confirmation by the customer. With regard to minor orders which are executed within 10 days after receipt of the order, the contract may also be concluded without written confirmation by mere delivery of the merchandise.

b) Field staff and commercial agents of LAMBRECHT meteo GmbH are merely authorized to initiate a contractual agreement, but are not competent to conclude any contract.

c) Any alteration or amendment of the contractual agreement of any specification regarding the implementation of the contract or of a customer's call-off order is void unless declared in writing. The written form may be replaced by electronic form (i.e. e-mails). The issuer of the respective declaration is not obliged to provide a simple or qualified electronic signature.

II. Applicable Law

All legal relationships between LAMBRECHT meteo GmbH and its customers are exclusively governed by the law of the Federal Republic of Germany.

III. Place of Jurisdiction

1. It is agreed that all disputes arising between the LAMBRECHT meteo GmbH and its customers are subjected to the exclusive international jurisdiction of German courts.

2. In regard to disputes arising between LAMBRECHT meteo GmbH and other businessmen or public authorities (i.e. statutory corporations, institutions or foundations) the exclusive jurisdictional venue shall be Göttingen. LAMBRECHT meteo GmbH is further entitled to institute proceedings before the court which exercises local jurisdiction at the customer's seat.

IV. Deviations from the Specification of the Stipulated Performance

The continuous development of LAMBRECHT meteo GmbH's products results in changes of construction which may lead to a deviation from the statements and illustrations as set out in the advertising folder. LAMBRECHT meteo GmbH thus reserves the right of amendment or variation of the product specifications. Statements contained in the brochure are no valid means of interpretation of a contract. In case a customer relies on a specific mode of implementation for technical reasons, he is obliged to notify this before conclusion of contract in written or in electronic form.

V. Customer's Obligation to Co-Operate, Industrial Protection Rights

1. Customers assume liability in the case that engineering drawings provided, or any product constructed in accordance with such drawings breach the intellectual property rights (such as patents, utility models or design rights) of third parties. In case the carrying out of an order infringes upon such rights, the customer is not only obliged to indemnify LAMBRECHT meteo GmbH from any claims arising from such infringement, but also to cover all costs of legal defence therewith connected.

2. LAMBRECHT meteo GmbH reserves all industrial property rights and the right to protection provided under unfair competition law with regard to any engineering drawings, printing plates, technical photographs or lists of items or component parts. Unless approval is granted by LAMBRECHT meteo GmbH they may not be made accessible to third parties.

VI. Delivery Period, Partial Delivery

1. a) A binding date of delivery stated in a confirmation of order issued by LAMBRECHT meteo GmbH does not constitute a definite date. Therefore, such a statement cannot render either a reminder or the setting of a period of grace unnecessary. The scheduled delivery date indicates the date the merchandise is shipped, not the date of receipt of the merchandise by the customer.

b) In case the execution of the order requires the provision of engineering drawings, models, templates, designs and the like by the customer, the appropriate time allowed for production will not begin before they have been fully provided. The date of delivery specified in the confirmation of the order will be postponed correspondingly.

If a call-order has been agreed upon, the appropriate time-frame for production begins at the time the order was posted.

c) LAMBRECHT meteo GmbH is entitled to fulfil its obligation by instalment delivery. 2. a) In case of any kind of business disruption which, through no fault of LAMBRECHT meteo GmbH, postpones the production of the merchandise or its shipment, the lapse of the contractually agreed time-frames will be postponed correspondingly to the duration of the impediment. The same applies in the case there is any disruption in delivery of raw materials or component parts by an outside supplier, for which LAMBRECHT meteo GmbH is not at fault.

b) Barring any further rights, the customer is entitled to rescind the contract in the case that LAMBRECHT meteo GmbH, through no fault of its own, greatly exceeds the time-limit agreed upon and a loss of interest by the customer can be proven. The customer is obliged to cover any expenses accrued up to the respective production status for products which are being manufactured according to specific needs of the customer, unless the customer can show that LAMBRECHT meteo GmbH is in the position to utilize the products in another way.

3. In case LAMBRECHT meteo GmbH is responsible for delayed delivery, the compensation is limited to the invoice value (net cost) of the sold product as maximum amount, unless the delay was caused by wilful intent or gross negligence of staff members.

VII. Transportation Risk

1. The risk of accidental loss or deterioration of merchandise passes to the customer at the time the merchandise leaves LAMBRECHT meteo GmbH's factory in Göttingen. This also applies if LAMBRECHT meteo GmbH provides the transport or commissions it to a freight carrier.

2. Any deliveries exceeding a merchandise value of 100 Euros will always be covered by transportation insurance concluded at the expense of the customer, unless the latter issues contrary instruction. If the value of the merchandise is less than 100 Euros, transport insurance will be concluded only at the customer's request and at his expense.

VIII. Withdrawal due to Impossibility of Complete Performance, Exclusion of Termination

1. LAMBRECHT meteo GmbH may withdraw from a contract without notice, if completion of performance has become absolutely impossible before passing of risk.

2. In case a product is manufactured in accordance with client-specific requirements, the customer is entitled to terminate the contract only for a compelling reason, which has arisen within LAMBRECHT meteo GmbH's sphere of responsibility. In case a part of the order has already been completed, the customer is obliged to proportionately remunerate the partial performance.

IX. Prices, Payment Period, Contractual Exclusion of Set-Off

1. Interpretation of Prices

All prices stated by LAMBRECHT meteo GmbH are net prices excluding VAT. The customer bears all costs for packaging and transport. VAT is calculated according to the VAT rate valid on the date the invoice is issued.

2. Right to Increase Prices

If statutory duties rise outside a time-frame of four months after conclusion of contract and necessitate an increase of prices for the manufacture, LAMBRECHT meteo GmbH is entitled to increase the contract price by the verified cost overrun. The same also applies if higher statutory duties necessitate an increase of standard wages paid by LAMBRECHT meteo GmbH. The higher costs are also to be verified by calculation.

3. Payment Date

a) In case the value of an order exceeds 5.000 Euros, one third of the total amount is due at the time of receipt of an electronic order confirmation. A further third is due at the time an electronic notification of shipment is issued and the remaining third is due at the time the customer receives the closing invoice electronically. For all orders with a value of less than 5.000 Euros, payment is due at the time at which the electronic invoice is received.

b) For the settlement of due payments, a time limit of 14 days is allowed.

4. Trade Discount, Default of Payment

a) For all payments settled within 8 days from falling due as set out above in clause 3a) the customer is entitled to a cash discount of 2 %.

b) If case the 14-day time limit for payment has been exceeded or default of payment occurs otherwise, LAMBRECHT meteo GmbH is entitled to charge interest at the rate of 5 % per year, above the base interest rate of the European Central Bank, but at the very least, 8 % per year.

5. Payment by Bills of Exchange and Cheques

Payment by Bills of Exchange and Cheques will be accepted as payment free of costs only if this has been agreed upon by the parties by means of a special contractual stipulation. Bills of Exchange and cheques will not be accepted in lieu of performance before they have been honoured. LAMBRECHT meteo GmbH can only be held liable for a delayed presentation of a cheque for payment if the delay is caused by intentional or grossly negligent conduct.

6. Delivery versus Payment, Advance Payment by Customer

a) Unless otherwise agreed upon, LAMBRECHT meteo GmbH is entitled to make delivery subject to the requirement of advance payment of the full purchase price without explanation for such measure, even if the confirmation of order was issued without such a respective reservation. Further, LAMBRECHT meteo GmbH may choose to dispatch the goods subject to immediate payment on delivery (collect on delivery).

b) Even in the case that in advance full or partial performance has been agreed upon, LAMBRECHT meteo GmbH is entitled to demand delivery versus payment or furnishment of securities, if circumstances, of which it has obtained knowledge after conclusion of contract, suggest that its claim for payment is jeopardized. Such exposure to loss may be assumed if a bill of exchange or a cheque has been protested against, if the 14-day time limit for payment has expired without settlement of the debt, or if a reminder has been issued in vain by LAMBRECHT meteo GmbH. In all these cases all outstanding debts will immediately fall due.

c) If a customer, contrary to aforesaid clause b), rejects delivery versus payment, the furnishment of securities, or if he refuses advance payment or collection on delivery under aforementioned clause a), then LAMBRECHT meteo GmbH of its own choice is entitled to withdraw from the contract and/or claim damages for non-performance.

7. Contractual Exclusion of Set-Off

The customer shall only have the right to make an offset, if his counterclaims have been recognized by LAMBRECHT meteo GmbH in writing or finally established at law. The customer is not entitled to withhold performance on the basis of counterclaims, unless these claims arise from one and the same contractual relationship.

X. Inspection, Acceptance, Duty to Reprimand

1. As far as acceptance of performance is required, the customer may not decline acceptance because performance was not rendered as owed, if the breach of duty is immaterial.

2. Notwithstanding the pre-delivery inspection undertaken by LAMBRECHT meteo GmbH the customer is obliged to immediately inspect the merchandise as according to custom and trade with regard to any defects of quality and, as far as already possible, defects of function. Perceptible defects in quality or function must be reprimanded upon accepting delivery without delay. Such notice of defects has to be stated in writing and communicated in advance in electronic form. The same applies to concealed defects of quality or function, which upon discovery, must be communicated without delay. The term 'defects of quality' similarly encompasses defects with regard to quantity, dimension and variance of character (cf. § 378 German Commercial Code – delivery of aliud). In case the customer fails to reprimand any defect in due form as stated above, he will forfeit his right to assert any remedies for impairment of performance.

3. At LAMBRECHT meteo GmbH's request, the customer is obliged to allow inspection of the reprimanded goods by a representative of LAMBRECHT meteo GmbH. Where required, the inspection is to be effected under operational conditions. The customer is not authorized to make any modifications (adaptation, repair) with regard to the reprimanded merchandise, nor is he authorized to operate it for intended factory use, before LAMBRECHT meteo GmbH has taken a decision whether the reprimand is to be accepted or rejected. A customer, who fails to adhere to these obligations, will thereby forfeit his right to assert any remedies for impairment of performance based on defect of quality or function.

XI. Impairment of Performance due to defects of Quality or Function

1. If a defect of quality or a malfunction has been ascertained, LAMBRECHT meteo GmbH is entitled to choose the appropriate manner of supplementary performance (replacement delivery or rectification of defects). The customer is neither entitled to claim any other or further remedies, nor to carry out any measures of improvement, unless LAMBRECHT meteo GmbH's effort of supplementary performance has failed.

2. The place of performance with regard to any claim for supplementary performance is the business premises of LAMBRECHT meteo GmbH in Göttingen. The customer is obliged to disassemble and to transport the defective goods orderly packaged to the business premises of LAMBRECHT meteo GmbH in Göttingen. The customer will be liable for damages that occur due to insufficient packaging. The customer is further obliged to reassemble and install the repaired product, or any products provided as substitute performance by his own personnel and at his own expense.

3. LAMBRECHT meteo GmbH reserves the right to fulfil any claims for supplementary performance, which are asserted after technical changes of repetition products have been implemented, by furnishing a compatible substitute product as performance in fulfilment of the original contract.

4. As far as a customer can assert statutory claims for damages based on defects in quality or function with regard to other than the merchandise sold, LAMBRECHT meteo GmbH can only be held liable for consequential damages to the maximum of the invoice value of the reprimanded product. This does not affect any liability arising under the mandatory provisions of the Product Liability Act or other indispensable provisions regarding the producer's liability under general tort law.

5. LAMBRECHT meteo GmbH cannot be held liable for any defects in quality or function, which arise due to inappropriate use, improper installation, incorrect operation, natural wear, excessive or undue strain, improper storage, use of improper equipment/tools or other circumstances arising within the customer's operational sphere, and which can neither be anticipated nor influenced by LAMBRECHT meteo GmbH.

6. a) Unless other time-limits are agreed upon, all claims and remedies arising from impairment of performance resulting from defects in quality or function are time-barred 12 months from the day the merchandise is dispatched by LAMBRECHT meteo GmbH. Insofar as dispatch requires co-operation of the customer, the same applies in case the readiness to dispatch was communicated.

b) Any right to reduce the purchase price or withdraw from the contract as consequence of a defect in quality or function is subject to the same time-limits as set out above in clause a).

c) With regard to damages arising from intentional or grossly negligent conduct and with regard to claims arising from personal injury under product liability rules, the statutory limitation periods apply.

7. Any component parts which have been replaced become the property of LAMBRECHT meteo GmbH.

XII. Warranties, Consultations

1. Specific qualities of the merchandise will only be contractually warranted by LAMBRECHT meteo GmbH at the explicit request of customers. Such warranty requires an explicit confirmation in the note accepting the order. The mention of industrial standards, technical data provided by the customer or a reference to engineering drawings as such do not constitute a warranty, but a mere description of the subject matter of the contract.

2. Both the assessment if a product is apt for operational use, processing or installation as intended by the customer and the quality choice between several equivalent appliances, instruments and their technical component parts remain the sole responsibility of the customer. Unless otherwise agreed upon in writing, any guidance or recommendation provided by LAMBRECHT meteo GmbH on the basis of operating experience does not give rise to any secondary contractual obligations.

XIII. Further Limitations of Liability

1. Any claims arising from culpa in contrahendo are excluded, unless they arise from intentional or grossly negligent conduct of a company body, or an executive employee vested with power of procurement.

2. LAMBRECHT meteo GmbH cannot be held liable for any damages the customer suffers due to improper handling, use, storage, faulty connection, excess voltage, stroke of lightning, exposure to external acts of force or impact of other parts of business installation. This does not apply to damages which arise from intentional or grossly negligent false guidance provided by an employee of LAMBRECHT meteo GmbH in fulfilment of a secondary contractual obligation explicitly adopted. Insofar, however, the objection of contributory negligence on the part of the customer remains valid.

3. Any liability for damages that do not occur on a product provided by LAMBRECHT meteo GmbH itself, but on another part of an assembled construction or system (e.g. wind energy converter, ship), i.e. a so-called 'Weiterfresserschäden' (insidious spreading loss), is excluded, unless such damage is caused by intentional or grossly negligent conduct of an employee of LAMBRECHT meteo GmbH.

4. Any compensation for a customer's loss of profit caused by a material defect of quality or a malfunction of the product delivered is excluded. As far as LAMBRECHT meteo GmbH is liable for damages arising from an intentional or grossly negligent conduct of any of its employees the amount of damages is restricted to the amount of coverage of the product liability insurance as contracted for by LAMBRECHT meteo GmbH.

XIV. Reservation of Title

1. Simple and Extended Reservation of Title

All products delivered remain the property of LAMBRECHT meteo GmbH until all payments including ancillary claims (e.g. damage for delay such as interest and reminder charges) are finally settled. This reservation of title is extended to all payments arising from the business relationship including former and future contracts. It similarly applies to payments not yet due or deferred and to any other claims of LAMBRECHT meteo GmbH against the customer arising from other legal relationships than sale and work supply contracts. This also includes replacement of any of the aforementioned debts and claims by bills of exchange or cheques.

2. Power of Disposal

a) The customer is entitled to dispose of the products supplied in the ordinary course of business, in particular to resell, process and install said products, unless LAMBRECHT meteo GmbH has revoked this authorization. A resale is deemed to go beyond the ordinary course of business, if the customer excludes assignment of his claim against the subcontractor of the goods (§ 399 German Civil Code), makes the validity of an assignment dependant on the approval by the subcontractor or subjects his claim to the subcontractor's right of set-off. Under aforementioned circumstances LAMBRECHT meteo GmbH does not authorize the customer to dispose of the products on which a title of reservation rests.

b) The authority to dispose conferred by the aforementioned clause is deemed to have been revoked in case an application for insolvency proceedings is filed with regard to the customer's assets, in case the customer is unable to pay or over-heavily indebted and accordingly would be obliged to apply for the opening of insolvency proceedings. The right to revoke the authority to dispose further is reserved in case of other irregularities occurring in the course of business relations. The customer waives the right to raise any objection resulting from the possession acquired by virtue of the preceding sales or work supply contract in advance.

3. Further Processing

a) Any processing of the products on which the reservation of title rests or any installation in a construction or system by the customer's subcontractor resulting in a new good shall be deemed done on behalf of LAMBRECHT meteo GmbH. The customer's subcontractor, however, is not entitled to claim any wages from LAMBRECHT meteo GmbH on this account.

b) Should the products sold be processed together with other items not belonging to LAMBRECHT meteo GmbH, the latter acquires a share in co-ownership in the new good or aggregate goods created, that corresponds to the factor of the net invoice value of the goods on which the reservation of title rests in proportion to the production or purchase value of third parties' property involved.

c) Aforementioned clauses 2 a) and b) apply mutatis mutandis to the authority of the customer to dispose of goods or aggregate goods co-owned by LAMBRECHT meteo GmbH.

4. Extended Reservation of Title

a) The customer assigns all claims arising from the resale of products on which the reservation of title rests to LAMBRECHT meteo GmbH in advance. With regard to co-owned merchandise, such assignment is restricted to the respective proportion of value as set out above in clause 3 b).

b) Should the value of the product on which the reservation of title rests increase by virtue of processing or installation, the advance assignment is restricted to 110 % of the net invoice value as stated by Wilhelm Lambrecht GmbH. However, the customer may not enforce his share in the assigned claim to the disadvantage of LAMBRECHT meteo GmbH.

c) In the course of ordinary business, the customer remains entitled to collect the assigned claims in his own name. LAMBRECHT meteo GmbH may at any time and without giving reason revoke this authority to collect the assigned claims and may inform the customer's subcontractor about the assignment. In case the authority to collect the assigned claims is revoked, LAMBRECHT meteo GmbH may demand that the customer name his recipients in a manner which enables LAMBRECHT meteo GmbH to notify the garnishee of the assignment.

d) In case a customer, prior to the assignment to LAMBRECHT meteo GmbH, has assigned his claims against a subcontractor arising from the resale of products on which the retention of title rest to third parties (in particular to a bank as a credit grantor), such disposition is deemed not to have taken place in the ordinary course of business.

e) In case the customer intends to assign the claims arising from the resale of products under an extended reservation of title to a third party bearing the delcredere risk (genuine factoring), the validity of such transfer depends on the advance written approval of LAMBRECHT meteo GmbH. Otherwise, such disposal is deemed not to have taken place in the ordinary course of business. The same applies in case the claims are assigned to a third party, which does not, or only to a limited extent, bear the delcredere risk (fake factoring).

f) All claims which arise from the resale of (co-owned) products under reservation of title and have been assigned by the customer to LAMBRECHT meteo GmbH in advance serve as security not only for the purchase price for the respective product resold, but also for all further claims mentioned in clauses 1 to 3 above.

5. Customer's Obligation of Information

a) The customer is obliged to inform LAMBRECHT meteo GmbH without undue delay, if a third party initiates any garnishment or other impairment of the products under reservation of title or if there are claims assigned in advance arising from resale of such products. In case the customer fails to provide said information, LAMBRECHT meteo GmbH is entitled to adequate damages.

b) The customer is obliged to immediately provide LAMBRECHT meteo GmbH with any information the latter requires, in order to assert its rights arising from claims against the customer's subcontractor, which have been assigned in advance, in extra-judicial or judicial proceedings. Similarly, the customer is obliged to provide copies of the relevant business documents necessary to prove such claims.

c) At the request of LAMBRECHT meteo GmbH the customer is obliged to bear inspection of his business premises, in order to mark the merchandise under reservation of title, store it separately and to effect its collection. The customer is obliged to assist the representatives of LAMBRECHT meteo GmbH by providing necessary information and logistic support.

6. Prevention of Over-Collateralization

Should the realisable values of the simple or extended reservation of title in connection with other securities in property provided by the customer exceed the value of the claims of LAMBRECHT meteo GmbH by more than 10 %, LAMBRECHT meteo GmbH will release securities of its choice [in the amount of the said excess] at the Customer's request.