

# General Terms and Conditions of Sale and Delivery

**of Lapmaster Wolters GmbH  
(hereinafter referred to as „Supplier“)**

**– applies exclusively to entrepreneurs –**

## **1. General**

- 1.1 The following General Terms and Conditions of Sale and Delivery (“GTC”) shall apply exclusively to all deliveries by Supplier. These GTC shall apply to future contractual relations between the parties, even if Supplier does not expressly refer to the GTC in case of further contracts - in particular in case of orders placed by telephone.

The acceptance of deliveries or services provided by Supplier shall in any case be deemed as an acknowledgement of these GTC, unless the contractual partner immediately expresses otherwise to the Supplier.

Deviating agreements or supplements, in particular agreements made with our representatives, are only binding if confirmed in writing by Supplier.

Deviating, conflicting or supplementary general terms and conditions of the purchaser shall not become part of the agreement even if Supplier is aware of them, unless their validity is expressly agreed.

- 1.2 The Incoterms 2020 shall apply to the interpretation of commercial clauses.

## **2. Offer**

- 2.1 Documents such as illustrations, drawings, weights and dimensions, etc., which are only attached to the offer but are not part of the offer, are only approximate and do not constitute a guaranteed quality of the goods unless expressly declared as binding by Supplier. Our offers are subject to change. Cost estimates are always non-binding.

- 2.2 The documents attached to the offer and its attachments are the property of Supplier. These documents may not be made accessible to third parties without the express written consent of Supplier and must be returned to Supplier or destroyed on request if

a contract is not concluded. Wilful violation shall result in an obligation to pay compensation.

### **3. Conclusion of contract**

- 3.1 The contract is concluded when Supplier confirms the placed order in writing, where appropriate within the period set by purchaser.
- 3.2 If Supplier has set a deadline for acceptance for the purchaser when making a written offer, the contract is deemed concluded if purchaser has sent a written acceptance of the offer before the expiry of the set deadline and if Supplier receives the acceptance at the latest within one week after the expiration of the deadline.
- 3.3. The parties are obliged to provide all documents and other information within their respective sphere of responsibility, which are necessary for performance of the contractual obligations, in particular for import or export or delivery of the goods.

### **4. Cancellation of an order**

If, after conclusion of a contract, Supplier exceptionally agrees to its cancellation at the request of purchaser, purchaser must pay a lump sum for expenses. If the Supplier agrees to the cancellation, this shall only take place as a gesture of goodwill; purchaser, in general, shall not be entitled to cancellation. The amount of the lump sum is calculated as follows according to the net order value and the time of cancellation: 15% up to 30 days, 25% up to 60 days, 50% up to 90 days and 75% up to 120 days, in each case after receiving the order confirmation of Supplier. A cancellation later than 120 days after receiving the order confirmation is not possible.

### **5. Delivery date**

If, after conclusion of the contract, Supplier exceptionally agrees to a postponement of a delivery or part thereof at the request of purchaser, this is only a gesture of goodwill and shall require a separate agreement. The agreed payment dates remain unaffected. However, a postponement of more than 14 days is generally excluded.

## **6. Content of the delivery contract**

All information provided by Supplier on the goods, in particular illustrations, drawings, information on quality, quantity, weight, dimensions and performance as well as technical specifications contained in the offers and printed matter, do not constitute a guaranteed quality of the goods but are approximate values. The quality, suitability, qualification and function as well as the intended use of the goods shall be determined exclusively in accordance with the performance specifications and technical qualifications included in the contract. Insofar as permissible deviations are not limited by the order confirmation or by expressly recognized customer specifications, deviations customary in the trade are permissible in any case. Public statements, promotions or advertising by Supplier or third parties do not constitute a guaranteed quality of the goods.

## **7. Prices**

Unless otherwise agreed, prices are always net FCA Rendsburg, Büsumer Strasse 96, 24768 Rendsburg, Germany excluding packaging.

## **8. Payment**

8.1 Payments shall be made directly to the paying agent of Supplier and not to representatives or third parties. Unless otherwise agreed, the following terms of payment shall apply:

- a) For machine deliveries and supplies:
  - 50 % net down payment upon receipt of the order confirmation
  - 40 % net upon notification of readiness for dispatch
  - 10 % net 30 days after date of invoice
  
- b) For the delivery of spare and wear parts, as well as for contract work:
  - Payment without deductions immediately upon receipt of invoice.

8.2 Purchaser is not entitled to assert a right of retention or set-off with due counterclaims, unless these are undisputed or have been legally established.

8.3 Bills of exchange and cheques are only accepted on account of performance and shall only be deemed as payment after they have been cashed. However, claims of Supplier become immediately due if purchaser does not fulfil its contractual obligations; irrespective of the acceptance of a bill of exchange on account of performance by

Supplier. In the event of default in payment, protest of a bill of exchange and suspension of payments by purchaser, Supplier may demand immediate payment of the total amount - including any claims from outstanding bills of exchange - without regard to the agreed due date. This shall also apply if Supplier becomes aware of circumstances, which give rise to reasonable and substantial doubts about the solvency or creditworthiness of purchaser; even if these circumstances already existed at the time the goods were ordered but were not known or should not have been known to Supplier. In all the aforementioned cases, Supplier is also entitled to carry out outstanding deliveries only against advance payment or provision of security and, if the advance payment or security is not provided within two weeks of a respective request of Supplier, Supplier may withdraw from the contract without setting a further deadline. Further claims shall remain unaffected. The obligation to make advance payments shall not apply in the event of an undisputed or legally established claim of the contracting party against Supplier.

- 8.4 If the payment dates are exceeded, Supplier shall charge default interest at a rate of 9 percentage points above the respective base rate of the European Central Bank p.a. The right to assert higher default damages remains reserved.
- 8.5 After a reasonable period of grace, Supplier shall be entitled to withdraw from the contract and/or to claim damages instead of performance.

## **9. Delivery period; force majeure**

- 9.1 Delivery shall be made FCA Rendsburg, Büsumer Strasse 96, 24768 Rendsburg, Germany.
- 9.2 The delivery period shall commence on the date of the order confirmation, but not before the provision of the documents, approvals, releases to be procured by purchaser and not before receipt of the agreed down payment.
- 9.3 The delivery period shall be deemed to have been met if the goods are loaded onto the buyer's means of transport on the agreed delivery date or, if the buyer does not provide the means of transport in good time, are made available for transport on this date. Correct and timely self-delivery remains reserved.
- 9.4 Supplier and purchaser shall be released from their respective performance obligations as long as the party concerned cannot fulfil its obligations due to force majeure, unless this was at least partly caused by the respective contractual party or is based on

circumstances, which could have been avoided taking into account the reasonable care. Force majeure includes in particular industrial disputes, lawful strikes, lockouts, wars, terrorism, natural disasters, epidemics and pandemics, operational disruptions, sanctions and embargoes and other legal barriers due to national or international law. Supplier shall inform purchaser immediately if such an event occurs. If it is likely to be a permanent performance barrier, Supplier shall be entitled to withdraw from the contract in whole or in part. If Supplier intends to withdraw, Supplier shall notify purchaser thereof immediately after having realized the extent of such barrier, even if the parties have agreed an extension of the delivery period initially.

9.5 Compliance with the delivery period shall be conditional upon purchaser fulfilling its contractual obligations. If delivery or assembly is delayed due to the fault of purchaser, the costs incurred by Supplier, the waiting time of the workers as well as any allowances shall be reimbursed.

9.6 If purchaser, with actual fault, fails to meet an agreed time period and if purchaser also fails to meet a reasonable grace period granted, Supplier shall be entitled to withdraw from the contract and/or to claim compensation instead of performance.

## **10. Transfer of risk**

10.1 All sales are FCA Rendsburg, Büsumer Straße 96, 24768 Rendsburg, Germany.

10.2 Insurance against transport damage shall only be taken out – if desired – at the order and expenses of purchaser.

## **11. Retention of title**

11.1 All goods delivered shall remain the property of Supplier (“Reserved Goods”) until all its existing claims and those arising after conclusion of the contract against purchaser have been paid, in particular the claim balances shown in each case.

11.2 Software installed for use on the machines must first be activated by Supplier. The final activation of the software on these machines (and thus of the machine) shall only take place upon full payment of the remuneration for the machine, including the software installed on it. Until the remuneration has been paid in full, Supplier shall only tolerate the activation of the software (and thus the use of the machine) for acceptance purposes of the machine, insofar as this is necessary. Supplier shall only temporarily activate the software for this purpose.

- 11.3 Purchaser hereby assigns to Supplier, together with all ancillary rights, the claims arising from the resale of Reserved Goods, including within the scope of contracts for work and services or contracts for the delivery of movable goods to be manufactured or produced. They shall serve as security to the same extent as Reserved Goods. Assignment to third parties is only permissible with the prior written consent of Supplier.
- 11.4 If purchaser sells Reserved Goods together with other goods not ordered from Supplier, the assignment of claims resulting from the resale of goods only applies to the amount of the value of the Reserved Goods as invoiced at the time of delivery. In the event of selling goods that are co-owned by Supplier, the assignment of claims shall apply in the amount of the co-ownership share.
- 11.5 Purchaser may only sell Reserved Goods in the ordinary course of business pursuant to its usual terms and conditions and in case of an agreed retention of title to the extent set by Supplier. Purchaser is authorized to collect the claims arising from the resale.
- 11.6 In the event that purchaser does not properly fulfil its contractual obligations, Supplier is entitled to enjoin purchaser from reselling, processing, combining and mixing the Reserved Goods with other goods as well as revoke the authorization to collect claims.
- 11.7 If purchaser machines and processes Reserved Goods, Supplier shall be deemed to be the manufacturer within the meaning of Section 950 of the German Civil Code (BGB). If the Reserved Goods are processed, combined or mixed by purchaser with goods of other origin to form a new item or a mixed stock, Supplier shall be entitled to co-ownership thereof in the ratio of the invoice value of the Reserved Goods at the time of delivery to the value of the other processed or mixed goods. If the Reserved Goods are combined or mixed with other items and if an item belonging to purchaser is to be regarded as the main item within the meaning of Section 947 of the German Civil Code (BGB), it is hereby agreed that a co-ownership share in the ratio of the invoice value of the Reserved Goods to the value of the main item shall be transferred to the Supplier and purchaser shall keep the item in safe custody for Supplier free of charge.
- 11.8 Purchaser shall keep Reserved Goods for Supplier. Upon request, Supplier is entitled at any time to take stock of Reserved Goods at the place of storage as well as marking Reserved Goods sufficiently. If the value of the existing securities exceeds the claims of Supplier by more than 10% in total, Supplier is obliged to retransfer securities to this extent at the request of purchaser.

## **12. Drawings and drafts**

- 12.1 Unless otherwise agreed, drawings of the goods offered do not have to be approved by purchaser.
- 12.2 Without the consent of Supplier, purchaser shall not hand over, lend, show, sell or otherwise make available or accessible to any third party any drawings, photographs or specifications or reproductions thereof produced by Supplier which would enable anyone other than Supplier to manufacture similar devices, software or parts thereof.

## **13. Software license**

- 13.1 Upon full payment of the applicable software licence fees, as part of the price set out in the relevant order and subject to the performance of the contract, including the terms of the relevant order of the purchaser, Supplier grants to purchaser a limited, non-exclusive, non-transferable right of use ("Licence") the software of Supplier and any third party software supplied pursuant to this contract solely in the form of so-called object codes; the License is geographically limited to the country identified in the "delivery address" ("Licensed Software"). The License is granted solely in accordance with the following terms and conditions of this Section 13, supplements and additional user restrictions agreed between the parties.
- 13.2 Supplier retains the sole and exclusive ownership of all rights, legal claims and other legal positions with respect to the Licensed Software and derivative goods of the Licensed Software, as well as with respect to the copyrights ("Copyrights") and other intellectual and industrial property rights therein, limited only by the rights expressly granted to purchaser and the rights of owners or holders of third party software; neither a change of ownership nor a transfer of exclusive rights nor the granting of rights to sublicense are subject of the License granted. Corresponding legal positions have not been granted either expressly or implicitly.
- 13.3 License is limited to the use of the Licensed Software by purchaser for purposes of conducting its own operations - as defined in the order. License is further limited to the specific product module or machine with which the Licensed Software was delivered.
- 13.4 Purchaser is not entitled to use the software for the purposes of third parties or to make it accessible to third parties without consent of Supplier. Insofar as there are barriers to

proceedings (e.g. compatibility difficulties with software programmes of third parties) in relation to the software, purchaser shall be obliged to first contact Supplier in order to remediation. Purchaser shall only be entitled to engage third parties after the explicit and written refusal of Supplier.

- 13.5 Purchaser undertakes not to copy, modify, edit or otherwise rework, duplicate, decompile, disassemble or otherwise reverse engineer the Licensed Software (and the associated manuals) in any form, nor to attempt to do so, or to determine the underlying source code, either itself or through third parties, unless the action is expressly permitted by law. Purchaser also undertakes not to allow third parties to perform the aforementioned acts. The mandatory provisions in Sections 69d, 69e Copyright Act (UrhG) shall remain unaffected, whereby purchaser shall only be entitled to take decompilation measures if Supplier does not provide with the necessary information to establish interoperability upon request of purchaser.
- 13.6 Purchaser agrees not to sublicense the Licensed Software, sell, transfer, lease, rent, distribute or otherwise make the Licensed Software available to any third party.
- 13.7 Insofar as a transfer of the Licensed Software is permissible by way of exception, a transfer of the rights to use to third parties shall require the consent of Supplier. Consent shall not be refused contrary to good faith. However, Supplier is entitled to make its consent dependent on (i) purchaser confirms in writing that it will not retain or delete Licensed Software, any parts of it or back-up copies, (ii) purchaser must inform Supplier about the name and address of the purchaser and (iii) purchaser ensures that the respective party agrees that these license provisions shall apply.
- 13.8 Supplier is entitled to test the equipment and systems of purchaser to ensure compliance with this License at reasonable intervals. Such tests have to take place during normal business hours and with prior approval of purchaser.
- 13.9 Supplier reserves the right to revoke the limited grant of rights of use and the underlying agreement without further obligation or liability towards purchaser if
- a) purchaser violates these GTC and fails to remedy such violation within thirty (30) days of written notice by the Supplier,
  - b) purchaser violates the provisions pursuant to Section 13 or 14 and fails to remedy such violation within five (5) days of written notice by Supplier, or



- c) insolvency proceedings are opened against the assets of purchaser or a corresponding application is rejected for lack of assets, an insolvency administrator is appointed for any part of the business of purchaser or its assets are transferred to the creditors.

13.10 Purchaser undertakes to indemnify Supplier against liability for all damages and claims or demands of third parties resulting from the unauthorised use or unlawful transfer of the Licensed Software.

#### **14. Confidentiality of protected information**

14.1 Purchaser, its customers and end users (if any) shall not obtain any rights in or claims to patents, inventions, designs, discoveries, technical data, copyrights, trademarks, know-how, trade secrets or other intellectual and industrial property rights arising out of the performance of Supplier or otherwise relating to the goods supplied or made available. Supplier shall remain the sole owner of such rights.

14.2 Purchaser acknowledges that Supplier has developed or otherwise obtained, often at high expenses, certain protected information and techniques that are of great value to its business and for that reason are held in confidence by Supplier and have been disclosed to purchaser only in connection with the purchase of the goods subject to the contract.

14.3 Purchaser agrees to keep all protected information confidential and not to copy, publish, summarize or disclose such information to any third party, directly or indirectly, without prior written consent of Supplier.

14.4 Purchaser agrees to take all necessary steps to protect any Protected Information received from Supplier and to prevent its disclosure to and/or use by third parties (including non-disclosure agreements with employees and consultants of purchaser as well as steps taken by purchaser to protect its own Protected Information). "Protected Information" within the meaning of this section includes, but is not limited to,

- a) information relating to business secrets of Supplier in connection with manufacturing processes;

- b) information prepared by Supplier relating to the functions, user interface, distribution, use or maintenance of the goods; and
- c) information pursuant to Sections 12, 13 and 14 of these GTC.

14.5 In particular, the purchaser may not obtain confidential information by observing, testing, investigate or reassembling the goods or object (so-called reverse engineering).

14.6 Purchaser acknowledges that Supplier is entitled to make use of all available legal remedies as well as takes judicial measures in order to protect, preserve, defend and enforce its rights to the Protected Information.

## **15. Prohibition of assignment**

The purchaser is not permitted to assign any of the rights or claims granted to it by Supplier.

## **16. Warranty**

16.1 Purchaser shall carefully inspect the delivered goods for any material defects immediately after delivery at the place of destination. If purchaser discovers a defect, purchaser must notify Supplier in writing or by telex with a precise description of the defect immediately, at the latest eight (8) days after delivery of the goods at destination. Otherwise, the delivery shall be deemed to have been accepted as free of defects. If the defect was not detectable despite careful inspection of the goods upon delivery, Supplier must be notified immediately after its discovery. Notices of defects shall always be addressed directly to Supplier.

16.2 In the event of a justified and timely notice of defect, Supplier shall provide, at its sole discretion, subsequent performance by repair or replacement delivery.

16.3 If the repair or replacement delivery finally fails, purchaser may demand a reduction of the purchase price or cancellation of the contract. The subsequent performance shall be deemed to have failed after three (3) unsuccessful attempts at the earliest.

16.4 If purchaser remedies the defect itself without giving Supplier the opportunity to remedy the defect, the assertion of rights based on defects shall be excluded. The same applies

if purchaser otherwise carries out work on the software and thereby causes a defect in the goods.

- 16.5 If purchaser receives defective assembly instructions and has not yet assembled the goods, Supplier shall only be obliged to deliver assembly instructions that are free of defects. This shall only apply if the defect in the assembly instruction does not enable proper assembly.
- 16.6 The aforementioned provisions conclusively regulate the warranty of Supplier. In particular, he shall be liable for all other claims for damages related to material defects, irrespective of the legal grounds, exclusively in accordance with Clauses 16.7 - 16.9.
- 16.7 Supplier shall only be liable for claims for damages, irrespective of the legal grounds, including delay, defective delivery, violation of contractual obligations, violation of obligations during contractual negotiations, tort, product liability (with the exception of liability pursuant to the Product Liability Act), in the event of intent or gross negligence. Liability for slight negligence is excluded unless a so-called "Cardinal Obligation" is violated. Cardinal Obligations are those obligations whose compliance is essential for the fulfilment of the purpose of the contract and on whose compliance the contractual partner may regularly rely. In this case, Supplier shall only be liable for the typical damage foreseeable at the time of conclusion of the contract. This limitation does not apply to injuries suffered by purchaser to life, body or health.
- 16.8 Personal liability of the legal representatives, vicarious agents and employees of Supplier for damage caused by them is excluded in the event of slight negligence.
- 16.9 Warranty claims of purchaser shall become statute-barred within one year of delivery of the goods, insofar as the claim for subsequent performance, the right to withdraw from the contract or the right to reduce the purchase price is concerned. This does not apply if Supplier has acted fraudulently.
- 16.10 Agreements between purchaser and its customers which go beyond the statutory warranty rights shall not be at the expense of Supplier.

## **17. Compensation by purchaser**

If purchaser culpably fails to fulfil its contractual obligations, Supplier is entitled to claim an amount of 15% of the net invoice value as lump-sum damages. The right of purchaser to claim further damages remains unaffected. Purchaser reserves the right

to prove that Supplier has not incurred any damages at all or that the respective amount falls below the lump sum.

## **18. Commissioning**

18.1 If the assembly costs are included in the price of Supplier, purchaser shall in any case be responsible for the laying and connection of electricity lines to the machine, circuitry and light sources and water supply and drainage lines at his own expense. The same applies with regard to necessary structural conditions including a machine foundation. Accommodation and catering costs for fitters shall be borne by purchaser. Unless expressly agreed otherwise, the prices offered shall only apply to orders for the whole machine, uninterrupted assembly and subsequent commissioning. If delivery or assembly does not take place in due time delayed because of the fault of purchaser, purchaser shall bear the additional costs of Supplier, for the waiting time of the fitters and their release in accordance with the valid rates of Supplier.

18.2 Work not included in the scope of the offer shall be charged to purchaser according to the labour and material costs actually incurred.

## **19. Place of performance, place of jurisdiction, applicable law**

19.1 The place of business of Supplier (Rendsburg, Germany) is the place of performance for delivery and payment.

19.2 For all direct and indirect disputes arising from or in connection with the contractual relationship, the parties agree that the place of jurisdiction shall be the place of business of Supplier. Supplier is also entitled to bring an action at the place of business of purchaser. Statutory provisions on exclusive jurisdiction remain unaffected.

19.3 German law applies under the exclusion of (i) the United Nations Convention on Contracts for the International Sale of Goods (CISG), (ii) the provisions of the conflict of laws and (iii) future bilateral or international conventions, even if the provisions of such conventions has been transferred in German law.

## **20. Customs, export control, origin of goods and preferential treatment**

20.1 Supplier is only obliged to perform its contractual obligations if there are no legal barriers with regard to national or international regulations of Foreign Trade law as well as embargos and/or other sanctions. The US Export Control Law as well as US

sanctions and embargoes shall only be taken into account as this does not violate any EU Law.

20.2 Goods, software as well as technical know-how (technology transfers) of Supplier may be subject to export restrictions and therefore require a licence from the competent authority. In case of own exports of the purchaser, purchaser shall strictly perform in accordance with the respective export regulations, this also includes the customs regulations, among others for the presentation of the goods and review whether export licences are required. However, Supplier shall not be under any obligation to provide respective information. Rather, in case of its own exports, purchaser must ensure that he has the necessary information for a respective review. Supplier is not obliged to participate in the review, but shall disclose its present information upon request. However, Supplier is neither obliged to review on its own nor to create any documentations.

As a general rule, the export is the purchaser's own export if the purchaser or the purchaser's partner, if established in the territory of the European Union, has concluded a supply contract with the customer in the third country and the goods, software or technology will be exported to the customer on the basis of the supply contract. In case of doubt, the law shall apply with regard to the person of the exporter.

In justified cases, e.g. in the event of audits by the authorities, the purchaser shall provide the Supplier with the decisions of the authorities relevant to export control, e.g. the copy of the export license or the zero-rating notice (Null-Bescheid).

20.3 Unless otherwise agreed, Supplier shall provide information or documents to purchaser, regarding

- non-preferential origin of goods (e.g. certificate of origin),
- preferential origin of goods - in particular declarations of origin, movement certificate and Supplier's declarations

if it is possible and purchaser reimburses the costs.

20.4 If Supplier provides information with reference to

- the "Export Control Classification Number" according to the "U.S. Commerce Control List" (ECCN);

- the German export list numbers or the list item to Annexes of the EC Dual-Use Regulation
- the statistical commodity code according to the current commodity classification of foreign trade statistics and the HS ("Harmonized System") code or
- the country of origin and country code, if known and insofar as no information or documents according to section 20.3. are concerned

Supplier does so without guarantee for the correctness of the information.

## **21. Final provisions**

21.1 Transactions with entrepreneurs shall be treated in the same way as transactions with legal entities under public law and special funds under public law.

21.2 If a provision of the contract is or becomes invalid in whole or in part, the invalidity of this provision shall not affect the validity of all other provisions of this contract. The invalid provision shall be replaced by a legally valid provision which, in economic terms, comes as close as legally permissible to the regulatory purpose pursued by the invalid provision. The same applies to any gaps in this contract.

Dated July 2021