

## **General conditions of business and terms of delivery for sales of Leister Technologies AG, CH-6056 Kaegiswil, Switzerland**

### **1. Validity**

1.1 These current General Terms and Conditions ("General Conditions") are valid, should no other written agreement exist, for all sales and deliveries made by the company Leister Technologies AG, 6056 Kaegiswil/OW, Switzerland ("LTAG") or its affiliates. LTAG shall not be bound by the conditions of business and terms of delivery of the Purchaser or by any other documentation of the Purchaser which are intended to replace or modify these General Conditions.

1.2 For LTAG distributors or resellers, the following provisions shall also apply and all references to a "Purchaser" shall refer to such distributor or reseller. In case of discrepancies between a distribution agreement and these General Conditions, the terms of the distribution agreement shall prevail.

### **2. Acceptance of orders**

2.1 Purchaser will order products of LTAG or its affiliates (the "Products") with a binding order, by using the valid LTAG Product number and according to the prices valid when placing the order.

2.2 Orders are binding on Purchaser for 60 days and will be accepted only upon written confirmation by LTAG.

2.3 Purchaser shall be solely responsible for obtaining all import licenses for the import of the Products.

2.4 During the term of Section 2.2, Purchaser may not cancel, postpone or reduce the quantity of Product(s) after ordering without LTAG's prior written approval granted in each instance in LTAG's sole discretion, and subject to a cancellation charge in the amount of 15% of the purchase value or CHF 300, whichever is higher.

### **3. Description of the Products**

3.1 All details contained in offers, leaflets, drawings and photographs etc. are based on the Product specifications that are valid at the time of the offer being made. Such details are provided for information purposes only and shall not be read or construed as guaranteed features or properties of the Products in question. The Purchaser makes use of such data and information at its own risk.

3.2 The instructions of use of LTAG and the warnings as well as all amendments relating thereto must be immediately forwarded by DISTRIBUTOR to its customers.

3.3 At any time prior to delivery, the Products are subject to alterations and modifications in respect of construction and design that will not impair the correct functioning of the Product or its intended use by the Purchaser or customer at the time the agreement was entered. Such alterations or modifications do not represent a cause for complaint and do not entitle the Purchaser or customer to cancel an order.

3.4 Drawings, illustrations and descriptions for offers, installations, tools, machinery and accessories remain the property of LTAG. They may not be used for the manufacture by other parties of the objects illustrated or described. Moreover, the objects delivered may themselves not be used for the preparation of workshop drawings or for the manufacture by the Purchaser or other parties of the Products.

### **4. Prices**

4.1 The prices quoted in accordance with the written quotation are Ex Works factory Sarnen/Switzerland or Ex Works factory Shanghai (for Weldy products) (Incoterms 2010). They do not include customs handling, duties and taxes.

4.2 LTAG reserves the right to adjust prices in the event of increases in customs tariffs, exchange rates, transport or insurance tariffs, import duties and sales taxes or should new taxes and charges be introduced for which LTAG is not responsible or in the event of improvements having been made to the Products in question between the date when the order is placed and the date of delivery.

## **5. Terms of Payment**

5.1 Payments shall be made in Swiss Francs (CHF). The purchase price is to be paid net without set-off or deductions of any kind. Should the time limit for payment be exceeded, the Purchaser is in default with no notice or reminder from LTAG being necessary.

5.2 When the Purchaser is in default, default interest shall apply from the due date at the level of the current CHF 3 months LIBOR rate of the Swiss National Bank plus 5% and a processing fee of 3%. Payment of such default interest shall not affect the right of LTAG to require compensation for any further loss due to the delay.

5.3 The non-delivery of insignificant parts of an order or any claims under the terms of the warranty vis-à-vis LTAG do not entitle the Purchaser to postpone or withhold due payments.

5.4 In the event of delay in acceptance on the part of the Purchaser, the entire purchase price or the remainder thereof becomes due for immediate payment.

5.5 The Purchaser is expressly prohibited from setting off payment against counter-claims unless such counter-claim has been recognized by LTAG or has been finally adjudicated by a competent court of law or arbitral tribunal.

5.6 If a Purchaser has been in default with payments in the past, LTAG may request that Purchaser procures a bank guarantee, L/C or similar instrument (subject to approval by LTAG) to secure the payment prior to shipment of the deliverables.

## **6. Delivery and terms of delivery**

6.1 The delivery time quoted by LTAG in the order confirmation is intended merely as an approximation unless a delivery date is expressly indicated as being binding.

6.2 LTAG undertakes commercially reasonable efforts to meet all agreed delivery dates. However, a delay in delivery does not entitle the Purchaser to refuse acceptance of the goods, to cancel the order and / or to claim any form of compensation.

6.3 LTAG is entitled to effect partial deliveries and to invoice for these separately.

## **7. Assumption of risk**

With the notification of LTAG or its affiliate that the Products are ready for shipment, the Purchaser assumes all risks.

## **8. Reservation of title**

All tools, products, goods etc. that are supplied by LTAG remain the property of LTAG until receipt of the full payment. The Purchaser herewith empowers LTAG to have the reservation of property recorded in the appropriate official register at the expense of the Purchaser.

## **9. Export**

Exporting the products to other member-states of the EC or to countries outside the EC requires the written consent of LTAG, it being understood the Purchaser is solely responsible to ascertain compliance of the Products with export regulations and with the laws and regulations of the destination country.

### **Export control measures**

At the request of LTAG, the customer must truthfully complete the Statement of End-Use and return it to LTAG within the reasonable time period. Leister is responsible for the export documents and any export permits. Exclusion of costs see point 5 (Prices).

The ordering party is responsible for obtaining any import permits or licenses in the country of destination. If LTAG determines prior to delivery that a purchaser appears on a sanctions list, Leister shall be entitled to withdraw from the contract at no further cost and not to carry out the delivery.

## **10. Warranty**

The warranty of LTAG for the delivered Products is limited to the following with all other and further representations and warranties being disclaimed:

10.1 LTAG warrants that Products are free from defects in material and workmanship in accordance with the respective state-of-the-art at the time of delivery. Alterations in construction or implementation, generally undertaken by us, prior to delivery of an order do not entitle the Purchaser to deem the goods faulty.

10.2 Complaints for defects have to be notified to LTAG in writing within 14 days of the receipt of the Products, or with respect to hidden defects which could reasonably not have been detected upon receipt of the Products within 14 days of the detection of such hidden defect.

10.3 If nothing to the contrary has been agreed in writing, the warranty period is 12 months (for Leister products) and 6 months (for Weldy products), in each case from the notification that Products are ready for shipment.

10.4 Subject to timely notice, the warranty work is performed at the discretion of LTAG by a replacement delivery or elimination of the defect at no charge. To that effect, the Purchaser has to return to LTAG the defective items in their original condition in adequate packaging carrying the invoice number. Subject to mutual agreement, the Purchaser or the customer may carry out the repair, with LTAG providing the necessary parts and compensation in the form of a lump sum for the necessary labor. Claims for rescission of the agreement or price reduction are not permitted, unless the defect cannot be repaired or further attempts at fixing the defect are unreasonable for the customer.

10.5 No warranty applies in the case of repair work or alterations to the delivered Products not authorized or effected by LTAG. Expendable parts and heating elements are excluded from any warranty.

10.6 Damage due to natural wear and tear, overloading or improper handling are excluded from the warranty.

10.7 The transport costs (DDP - delivered duty paid) for the return shipment in cases of warranty claims must be borne by the Purchaser.

## **11. Rights**

All rights to the Products, particularly trademark rights and copyrights, as well as rights of publication, reproduction, processing and utilization shall remain the property of LTAG and shall not be affected by this agreement. The products are distributed under the worldwide registered and protected brands «Leister» and «Weldy». The Purchaser acquires no right to use such brand names. The rights to the brand name, in particular trademark rights and copyrights, as well as rights of publication, reproduction, processing and utilization are and remain the property of LTAG and shall not be affected by this agreement. Any alteration of the trademark is expressly forbidden. In particular no logos or type plates on the Products or the packaging or on other documents or property of LTAG may be removed, pasted over or otherwise altered. Only the patterns and logos of LTAG may be used.

## **12. Liability**

These General Conditions set forth the exclusive remedies of the Purchaser for defects of the delivered Products. LTAG's liability is limited to the purchase price of such Products. Any claim of the Purchaser for compensation of damages which is not expressly granted in the above Sections, irrespective of the sort of claim or its basis in law, particularly claims arising from violation of accessory contractual obligations, for loss and damage in transit, from positive breach of contract, for consequential loss or damage arising from defects (in as much as these are not covered by contractual warranty), from Purchaser's claims of recourse resulting from product liability, from Purchaser's claims for commercial material damages due to defective products, etc., is hereby excluded, unless such claim is the result of unlawful intent or gross negligence by LTAG.

Neither LTAG nor anyone else who has been involved in the creation, production or delivery of Products shall be liable for any direct, indirect, consequential or incidental damages (including damages for loss of business profits, business interruption, loss of business information and the like) arising out of the use of or inability to use such Products.

### **13. Code of Conduct for LTAG and its business partners**

The 'code of conduct for LTAG and its business partners' is published on [www.leister.com](http://www.leister.com). In equal measures, LTAG expects business partners to abide by all applicable national and international laws and regulations as well as by the minimum requirements of this 'Code of Conduct for business partners'

### **14. Amendments to the General Conditions**

All amendments to these General Conditions as well as any deviations therefrom or supplementary agreements thereto must be made in writing.

### **15. Precedence of the German language version**

These General Conditions are available in both the German and English languages. In the event of discrepancies between the two versions, the German language version of the General Conditions shall take precedence.

### **16. Governing law**

The legal relationship between LTAG and the Purchaser is exclusively governed by and construed in accordance with Swiss law. The application of the United Nations convention on the international sale of goods (Vienna Convention) is hereby excluded.

### **17. Jurisdiction and place of performance**

16.1 The exclusive place of jurisdiction for all disputes arising from or relating to the relationship between LTAG and the Purchaser in respect of the supply of Products or provision of services is Zurich, Canton of Zurich, Switzerland. The Purchaser hereby expressly waives any and all rights to its statutory place of jurisdiction.

16.2 The place of performance for the supply of the Products and for payment is CH-6056 Kägiswil, Canton Obwalden, Switzerland.

### **18. Data protection**

LTAG processes personal data of the Purchaser only in compliance with applicable data protection laws. The Purchaser has taken note of and agrees to the terms of the LTAG Data Protection Declaration (<https://www.leister-group.com/de/leister-legal-notice>). LTAG reserves the right to update and amend such Data Protection Declaration to conform to current requirements.

CH-6056 Kägiswil, 24.03.2020