

General Conditions of Sale of LAVAIR AG Klimatechnik

§ 1

General - Scope of Application

- (1) The terms and conditions of purchase of LAVAIR AG shall apply exclusively; any terms and conditions to the contrary or customer conditions deviating from our conditions of purchase will not be recognised unless expressly agreed in writing as to their validity. The terms and conditions of sale of LAVAIR AG also apply if we carry out the delivery to the customer without reservation in the knowledge that the customer's terms and conditions are contrary to or deviate from the terms and conditions of sale of LAVAIR AG.
- (2) The terms and conditions of purchase of LAVAIR AG shall only apply to companies in accordance with Art. 310 (1) German Civil Code (BGB).
- (3) The terms and conditions of purchase of LAVAIR AG shall also apply to all future transactions with the customer.

§ 2

Offer - Conclusion of contract

- (1) If the order is to be qualified as an offer in accordance with § 145 BGB, LAVAIR AG can accept it in writing within two weeks, provided LAVAIR AG has not expressly agreed a different binding period on their offer.
- (2) Solely decisive for the legal relationship between LAVAIR AG and the customer is the written sales contract, including these general terms and conditions of sale. These terms fully reflect all agreements made between the contracting parties concerning the contractual object. Verbally made promises made by LAVAIR AG prior to the conclusion of contract are not legally binding; verbal agreements of the contracting parties are replaced by the written contract.

- (3) To be effective, additions and amendments to the agreements reached, including these general terms and conditions of sale, are subject to written form. To comply with written form, telecommunication transmission shall suffice, in particular by fax or email, provided that a copy of the signed declaration is sent.
- (4) LAVAIR AG retain the property rights and copyrights to illustrations, drawings, calculations and other documents. This also applies to written documents designated as "confidential". Prior to passing them on to third parties, customers are subject to explicit written consent by LAVAIR AG.

§ 3

Prices - Terms of payment

- (1) Unless stated otherwise in the order confirmation, prices of LAVAIR AG are "ex works", excluding packaging which is invoiced separately.
- (2) Statutory value-added tax is not included in prices of LAVAIR AG; it is charged in statutory amount on the day of invoicing, stated separately on the invoice.
- (3) Discounts are subject to prior special written agreement.
- (4) Unless stated otherwise in order confirmations, purchase prices are net (without deduction), payable within 30 days of invoice date. Legal regulations concerning consequences of default of payment shall apply.
- (5) Customers shall only be entitled to offsetting rights if their counterclaims are legally binding, undisputed or recognised by LAVAIR AG. In addition, customers shall be authorised to exercise right of retention insofar as their counterclaim is based on the same contractual relationship.
- (6) LAVAIR AG shall be entitled to execute or render outstanding deliveries or services only against advance payment or provision of security if, after conclusion of purchase contract, the company becomes aware of circumstances which are likely to

substantially reduce the customer's creditworthiness, thereby putting at risk the payment of our outstanding customer claims, based on the contractual relationship.

§ 4

Delivery Period

- (1) The beginning of the delivery period stated by LAVAIR AG is subject to clarification of all technical queries.
- (2) Compliance with our delivery obligation further requires the timely and proper fulfilment of our customers' obligations. The defence of non-performance of contract remains reserved.
- (3) If customers are in default of acceptance or culpably violate other obligations to cooperate, LAVAIR AG shall be entitled to claim related damages incurred, including any additional expenses. Further claims or rights are reserved.
- (4) Insofar as conditions of subsection (3) are met, risk of accidental loss or accidental deterioration of the sales object shall pass to customers at the point in time at which customers are in default of acceptance or debtor's delay.
- (5) LAVAIR AG shall be liable in accordance with statutory provisions insofar as the underlying purchase contract is a firm deal in the sense of Art. 286 subs. 2 no. 4 of the German Civil Code (BGB) or Art. 376 German Commercial Code (HGB). LAVAIR AG shall also be liable in accordance with statutory provisions if, as a consequence of a delay in delivery which LAVAIR AG is responsible for, customers are entitled to claim that their interest in further performance of the contract has ceased to exist.
- (6) LAVAIR AG shall also be liable in accordance with statutory provisions if delays in delivery are due to intentional or grossly negligent breach of contract for which LAVAIR AG is responsible. Faults of our representatives or vicarious agents shall be attributed to LAVAIR AG. Insofar as delays in delivery are due to gross negligence on the part of LAVAIR AG, our liability for damages shall be limited and based on foreseeable damage that typically occurs.
- (7) LAVAIR AG shall be liable in accordance with the statutory provisions insofar as delays in delivery for which we are responsible are based on the culpable breach of an

essential contractual obligation. In such case, however, liability for damages shall be limited to the foreseeable, typically occurring damage.

(8) Further legal claims and customer rights remain reserved.

§ 5

Transfer of Risk - Packaging Costs

- (1) Unless stated otherwise in confirmation of orders, delivery "ex works" shall be agreed. Shipping costs are charged to customers "ex works".
- (2) Upon customers' request, LAVAIR AG shall cover delivery by transport insurance; related costs incurred shall be borne by customers.

§ 6

Liability for Defects

- (1) Customer warranty claims are subject to customers complying with their obligations according to Art. 377 German Commercial Code (HGB) in terms of inspection and notification of defects in accordance with regulations.
- (2) Insofar as there is a defect in the object of purchase, the customer shall be entitled to Choose subsequent performance in the form of removal of defects or delivery of a new item, free of defects. In the case of removal of defects or replacement delivery, LAVAIR AG is obliged to bear all expenses required for the purpose of subsequent performance, especially cost of transport, travel, labour and material, insofar as costs are not increased due to the sales object being transported to a location other than the place of performance.
- (3) If supplementary performance fails, customers shall be entitled to withdraw from the contract at their own discretion or demand a reduction in price.
- (4) In the event of defects in items or components from other manufacturers which LAVAIR AG cannot remedy for licensing reasons, we shall, at our discretion, either assert our warranty claims against the manufacturer or supplier for the customer's account or assign

them to the customer. Warranty claims against LAVAIR AG for such defects exist under the other conditions and in accordance with the General Terms and Conditions of Sale only if the legal enforcement of the above-mentioned claims against the manufacturer or supplier was unsuccessful or, for example due to insolvency, is futile. For the duration of the legal dispute, the limitation period for the customer's relevant warranty claims against LAVAIR AG shall be suspended.

- (5) LAVAIR AG shall be liable in accordance with statutory provisions if customers assert claims for damages based on intent or gross negligence, including intent or gross negligence on the part of our representatives or vicarious agents. Insofar as we are not accused of intentional breach of contract, the liability for damages shall be limited to the foreseeable, typically occurring damage.
- (6) LAVAIR AG is liable in accordance with statutory provisions if we culpably violate an essential contractual obligation. However, in this case too, liability for damages shall be limited to the foreseeable, typically occurring damage.
- (7) Insofar as customers are otherwise entitled to compensation for damages instead of performance due to negligent breach of duty, liability of LAVAIR AG shall be limited to compensation for foreseeable, typically occurring damages.
- (8) Liability for culpable injury to life, body or health shall remain unaffected. This shall also apply to mandatory liability under the Product Liability Act.
- (9) Unless otherwise regulated above, liability shall be excluded.
- (10) The limitation period for claims for defects is 12 months, calculated from the transfer of risk. Insofar as the law pursuant to Art. 438 subs. 1 no. 2 BGB (Buildings and Items for Buildings), Art. 445 b BGB (Right of Recourse) and Art. 634a para. 1 BGB (Building Defects) prescribes longer periods, these periods shall apply.
- (11) All other mandatory provisions of the delivery recourse remain unaffected.

§ 7

Joint and Several Liability

- (1) Any further liability for damages other than provided for in § 6 shall be excluded, irrespective of the legal claim's legal nature. This shall apply in particular to claims for damages arising from negligence in contracting, other breaches of duty or tortious claims for compensation for property damage in accordance with Art. 823 BGB.
- (2) The limitation according to subsection (1) shall also apply if customers demand compensation for useless expenses instead of claims for compensation for damages.
- (3) Insofar as liability for damages against LAVAIR AG is excluded or limited, this shall also apply with regard to personal liability for damages of employees, workers, staff, representatives and vicarious agents of LAVAIR AG.

§ 8

Retention of title

- (1) LAVAIR AG retains ownership of the purchased item until receipt of all payments based on the delivery contract. If customers act in breach of contract, in particular in the case of default of payment, LAVAIR AG shall be entitled to take back the object of sale. The taking back of the sales object by LAVAIR AG shall constitute a withdrawal from the contract. After taking back the object of sale, LAVAIR AG shall be authorised to dispose of it whereby proceeds of realisation are to be offset against the customer's liabilities minus reasonable realisation costs.
- (2) Customers are obliged to treat sales objects with care. Customers commit in particular, and at their own expense, to take out sufficient insurance cover against damage caused by fire, water and theft at replacement value. If maintenance and inspection works are necessary, customers must carry them out in good time at their own expense.

- (3) In the event of seizure or other interventions by third parties, customers shall notify LAVAIR AG immediately in writing so that LAVAIR can file a lawsuit in accordance with Art. 771 (German Code of Civil Procedure, ZPO). If the third party is not able to provide LAVAIR AG with the judicial and extrajudicial costs of a lawsuit according to Art. 771 ZPO, customers shall be liable for the resulting loss incurred by LAVAIR AG.
- (4) Customers shall be entitled to resell the object of sale in the ordinary course of business; however, they hereby assign to LAVAIR AG all claims in the amount of the final invoice amount (including VAT) of our claim, which accrue to them from the resale against their customers or third parties, irrespective of whether the object of sale has been resold without or after processing. Customers remain authorised to collect this claim even after the assignment. The authority of LAVAIR AG to collect the claim shall remain unaffected by this. LAVAIR AG undertakes, however, not to collect the claim as long as the customer fulfils his payment obligations from the proceeds received does not fall into arrears and, in particular, no application for initiation of composition or insolvency proceedings has been made or payments suspended. In such case, however, LAVAIR AG can demand that customer informs LAVAIR AG of any assigned claims and their debtors, while providing all information necessary for collection, handing over relevant documents and informing debtors (third parties) of such assignment.
- (5) The processing or alteration of the purchased item by the customer is always carried out for LAVAIR AG. If the object of purchase is processed with other objects not belonging to LAVAIR AG, the company shall acquire co-ownership of the new object in the ratio of the value of the object of purchase (final invoice amount including VAT) to the other processed objects at the time of processing. The same shall apply to the object resulting from processing as to the object of sale delivered under reservation of title.
- (6) If the object of purchase is inseparably mixed with other objects that do not belong to LAVAIR AG, the company shall acquire co-ownership of the new object in the ratio of the value of the purchase object (final invoice amount, including VAT) to other mixed objects at the time of mixing. If the mixing is carried out in such way that the customer's item is

to be regarded as the main item, it shall be deemed agreed that customer transfers proportional co-ownership to LAVAIR AG. The customer shall keep sole ownership or co-ownership thus created safe for LAVAIR AG.

- (7) The customer also assigns to LAVAIR AG those claims to secure the company's claims against him that arise against third parties based on the connection of the sales object with a property.
- (8) At the customer's request, LAVAIR AG undertakes to release securities to which the company is entitled insofar as the realisable value of LAVAIR AG securities exceeds claims to be secured by more than 10%; LAVAIR AG shall be responsible for selecting the securities to be released.

§ 9

Final provisions

If the customer is a merchant, the place of jurisdiction shall be the registered office of LAVAIR AG. The company, however, is also entitled to sue the customer at the court of his place of residence.

The law of the Federal Republic of Germany shall apply. The United Nations Convention Nations on Contracts for the International Sale of Goods dtd. 11 April 1980 (CISG) does not apply.

Unless otherwise stated in the order confirmation and the customer is a merchant, the registered office of LAVAIR AG shall be the place of performance.

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