

LfC General Terms & Conditions for Sales Contract

- I. Formation of contract
1. The subsequent terms and conditions shall govern any and all sales contracts and/or related purchase orders to be concluded by LfC Sp. z o.o. within LfC's ordinary course of business. The applicability of any kind of terms and conditions shall be excluded if LfC does not explicitly object to such terms and conditions.
2. LfC's offers are not binding. Any and all statements made by LfC's employees shall not be binding upon LfC unless expressly approved by a duly authorized representative of LfC and/or a member of LfC's management.
- II. Price Unless agreed otherwise, the applicable prices shall be those contained in the price list as applicable at the time the contract is concluded and/or a purchase order is confirmed by LfC. All prices are understood to be net, FCA Zielona Góra (INCOTERMS 2010), plus value-added tax, cost of packaging, dispatch and handling.
- III. Payment and Set-Off
1. Payment shall be made without deductions within 30 days of the invoice date, unless a longer payment term is issued on the invoice. Costs of payment shall be borne by Buyer. A right of retention and/or set-off may only be exercised by Buyer if the underlying claim has previously been acknowledged by LfC in writing or if the respective amount has finally been awarded by a court or arbitral tribunal of competent jurisdiction.
2. In case Buyer fails to make payment within due time, Buyer shall be obliged to pay interest of the amount due at a rate of nine percentage points p.a. above the applicable base rate of the European Central Bank from the date of the invoice until date of payment(s) unless Buyer proves lesser damages. LfC's right to claim for damages incurred by Buyer's late payment remains unaffected.
3. In case LfC becomes aware of a material deterioration of buyer's financial situation endangering the fulfillment of claims LfC has against Buyer, any and all payments due to LfC shall immediately fall due regardless of the due date originally agreed upon.
Additionally, LfC shall be entitled to make any further performance dependent on advance payment and/or the provision of adequate securities.
4. LfC is entitled to set off any and all claims it may have against the Buyer and/or to exercise a respective right of retention.
- IV. Performance of Deliveries, Terms of Delivery and Delivery Dates
1. Any and all specifications made by LfC as to the time of delivery shall be deemed to be approximate. An agreed delivery time shall not start to run unless (i) LfC confirms the time of delivery by separate communication in writing after the conclusion of contract; (ii) Buyer has taken any and all measures ensuring the timely performance by LfC, e.g. Buyer's provision of required certifications, provision of letters of credit and guarantees or payment of down payments.
2. Falling an agreement to the contrary, delivery times shall be deemed to be complied with provided that the time period between the handing over of the goods to the carrier and the arrival at the place of delivery as set forth in the purchase contract corresponds to the delivery time agreed upon between LfC and Buyer.
3. Events of *force majeure* shall automatically extend the delivery time agreed upon by the time the impediment referred to as *force majeure* continues to exist plus a reasonable lead period. This shall also apply if such impediment occurs during an existing delay. Any notification obligations under the applicable law in case of *force majeure* remain unaffected.
The notion of *force majeure* shall include impediments caused by drastic currency depreciation, embargos and other sovereign measures, strikes, lockouts and production shutdowns beyond LfC's control (for example, fire, general lack of raw materials and/or energy), obstruction of traffic routes, delays of import/customs clearance, as well as all other circumstances which, without fault on LfC's part, render deliveries and performances materially more difficult or impossible.
4. *force majeure* does not entitle neither Party to terminate the contract unless the *force majeure* renders the concerned Agreement unreasonably burdensome for the terminating Party.
- V. Retention of Title
1. Goods delivered shall be deemed to remain LfC's property until any and all of LfC's claims resulting from the underlying purchase contract are performed.
2. Buyer shall, on his own costs, perform any and all measures required by the applicable law at Buyer's place of business to give effect to the retention of title agreed upon according to Sec. V., para. (1).
3. In case Buyer fails to perform his obligations or to honor a bill of exchange at due date and does not cure his non-performance within an additional period of time of reasonable length, LfC shall be entitled to require the Buyer to refrain from distributing, processing and/or assembling the goods with other goods and the removal of the delivered goods.
- VI. Passing of Risks, Partial Deliveries, Continual Deliveries, Late Delivery
1. Unless agreed otherwise, any and all deliveries are made FCA Zielona Góra, Poland (INCOTERMS 2010). Shipment of the Products will be performed by a carrier of good standing to be hired by LfC, the costs of which have to be borne by Buyer.
2. LfC shall be entitled to perform delivery in lots. LfC reserves the right to modify the quantity of goods to be delivered as long as such deviations are acceptable according to applicable trade usages.
3. In case of late delivery, Buyer shall grant LfC fourteen (14) working days for additional performance.
- VII. Remedies of the Buyer for Lack of Conformity of the Goods
LfC can be held liable by Buyer for any non-conformity of goods in accordance with the following provisions:
 1. Buyer must examine the LfC Products within 7 days of receipt from the carrier for any lack of conformity and give notice to LfC of any such lack of conformity within a further period of 7 days. If non-conformity cannot be ascertained by reasonably thorough examination (i.e. "latent defects"), then the period for notification of the non-conformity shall commence upon discovery.
 2. Once Buyer concludes the examination according to Sec. VII para. (1), he loses his right to rely on any and all non-conformities which could have been discovered by Buyer during a reasonably thorough examination. The same applies with respect to the reported non-conformities if Buyer does not provide samples and/or any other assistance reasonably requested by LfC to assess the reported non-conformity.
 3. Buyer shall have the right to return non-conforming goods and to request repair, ruling out other claims. However, LfC reserves the right to replace the non-conforming Product instead of repairing it. If LfC refuses to repair, or if attempts to repair have failed and LfC Reseller cannot reasonably be expected to accept further attempts to repair, then LfC Reseller shall have the right to either terminate the underlying sales contract and/or purchase order or demand and adequate reduction of the purchase price.
 4. For the purpose of returning goods according to Art. VII para. (3), Buyer shall, when notifying LfC about the lack of conformity according to Art. VII para. (2), request a Return Material Authorization (RMA) from LfC and LfC shall issue such Authorization together with a RMA number. The RMA number must be displayed on or in the returned LfC Product's packaging. LfC shall not be obliged to satisfy any warranty claims if a LfC Product is returned without RMA number.
 5. LfC warrants that to the best of its knowledge goods sold by LfC as LfC's own products ("LfC Products") and the underlying technology are free from any and all rights of third parties, including but not limited to the intellectual property rights to the extent provided for by Art. 42 CISG. Buyer shall promptly notify LfC in writing of any claim of infringement or any action for infringement brought against it by a third party based upon the use of LfC Products. If such use does not conflict with instructions given by LfC, LfC shall at its own costs, at the requested of LfC Reseller/Distributor, undertake the defense of the claim or suit to final judgement or settlement. Upon undertaking the defense pursuant to the foregoing, LfC shall have sole charge and direction of the defense.
 6. LfC shall further hold Buyer harmless from any damages or other sums that may become payable by Buyer under a final judgement or settlement provided that (a) LfC can be held liable according to Art. 42 CISG, (b) LfC has previously directed the defense against the alleged infringement according to Art. 6 para. (5) and (c) Buyer has rendered to LfC all reasonable assistance that had been required by LfC in the defense.
 7. In addition to the aforementioned measures LfC may, at its discretion but in reasonable consultation with Buyer, seek to mitigate the effects of the alleged infringement by modifying the concerned LfC Products and/or by obtaining immunity from suit for infringement in favor of Buyer. In such case, LfC shall reimburse Buyer for all costs related to said notifications and to said immunity.
- VIII. Damages
 1. LfC's liability for breach of contractual and extracontractual obligations, in particular resulting from non-performance, delay, *culpa in contrahendo* and tortious acts – included LfC's responsibility for its management and any other person employed in performing its obligations – shall be restricted to damages caused by wrongful intent or gross negligence and shall in any case be limited to foreseeable losses in the meaning of Articles 25 and 74 CISG and damages characteristic for the type of contract in question.
 2. LfC's liability for fundamental breaches of contract within the meaning of Art. 25 CISG, its statutory liability according to the applicable Product Liability Law as well as any liability resulting from non-performance of implied or express warranties and conditions shall remain unaffected from this limitation of liability.
- IX. Applicable law and arbitration.
 1. Any and all Sales Agreements concluded by LfC Sp. z o.o. shall be governed by the provisions of Polish law, in particular the provisions of the Civil Code and the Code of Civil Procedure.
 2. Any disputes or claims arising from agreements concluded by LfC sp. o.o. or from their breach, termination or invalidity, or related to them, will be resolved by the court competent for the registered office of LfC Sp. z o.o., and the language of arbitration shall be Polish.
 3. The parties agree that any written communications related to any court proceedings shall be deemed delivered if delivered to the seat of the party to an address in accordance with the information provided in the relevant court register or other public register.
 4. The provisions of this Chapter IX shall survive the ending or expiration of the Purchase Order and / or the Purchase Agreement.