



## General Terms & Conditions of Purchase (GTCP)

### I. Scope, Form

1. These General Terms & Conditions of Purchase (abbreviated: "GTCP") shall apply to all business relationships between Lech-Stahlwerke GmbH (abbreviated: "LSW") and its business partners and suppliers ("Partner"), except for scrap purchasing.
2. The GTCP shall apply only if the Partner is an entrepreneur (Section 14 BGB [German Civil Code]), a legal entity under public law or a special fund under public law.
3. The GTCP shall apply, in particular, to agreements on the sale and/or delivery of movable items ("Goods"), irrespective of whether the Partner manufactures the Goods itself or purchases them from sub-suppliers (Sections 433, 651 BGB). Unless agreed otherwise, the GTCP in the version valid at the time of ordering by the purchaser or, in any case, in the last version communicated to it in text form shall also apply as a framework agreement to similar future agreement, without LSW being obliged to refer to them once again in each individual case.
4. These GTCP shall apply exclusively. Any deviating, conflicting or complementary general terms and conditions of the Partner shall become part of the agreement only if and to the extent that LSW has explicitly approved their applicability in writing. This approval requirement shall apply in any event, including, for ex., if LSW accepts the Partner's deliveries without reservation while being aware of its general terms and conditions.
5. Individual arrangements concluded with the Partner on a case-by-case basis (incl. ancillary agreements, amendments and modifications) shall supersede these GTCP in any event. Subject to evidence to the contrary, the content of any such arrangements shall be governed by a written agreement or our written confirmation.
6. Legally relevant declarations and notifications of the Partner in relation to the agreement (e.g. setting of a time limit, reminder, withdrawal) must be made in writing, i.e. in written form (e.g. letter, telefax). Statutory formal requirements and further evidence, especially in case of doubts about the declarant's legitimation, shall remain unaffected.
7. References to the applicability of legal regulations shall only serve clarification purposes. The legal regulations shall thus apply even without any such clarification, unless they are directly modified or explicitly excluded in these GTCP.

### II. Requests and Conclusion of the Agreement

1. Requests by LSW shall always be subject to change and non-binding. Any order by LSW shall be deemed binding no earlier than upon written placement or confirmation. The Partner must notify LSW about any obvious mistakes (e.g. spelling and calculation errors) and incompleteness in the order incl. the order documents to ensure correction or completion before acceptance; otherwise, the agreement shall be deemed not concluded.
2. The Partner must confirm the order in writing within three days or execute it without reservation, especially by dispatching the Goods (acceptance).
3. Delayed acceptance shall be regarded as a new offer and shall require acceptance by LSW.

### III. Delivery Time and Default in Delivery

1. The delivery time specified by LSW in the PO shall be binding and shall be understood as time of arrival at the place of performance. If the delivery time has been neither specified in the PO nor agreed otherwise, it shall be one week from conclusion of the agreement. The Partner shall be obliged to immediately notify LSW in writing if it will probably be unable to meet agreed delivery times for any reasons whatsoever.
2. If the Partner fails to render its service at all or within the agreed delivery time or comes otherwise into default, the rights of LSW, especially to withdrawal and damages, shall be governed by the legal provisions. The stipulations under clause III.3. shall remain unaffected.
3. If the Partner is in default, LSW shall be entitled, besides any additional legal claims, to claim flat compensation for damages caused to them by default in the amount of 1% of the net price for each completed calendar week, not exceeding, however, a total of 5% of the net price of the Goods delivered late. LSW shall retain the right to demonstrate that the damage incurred was higher. The Partner shall retain the right to demonstrate that no damage was incurred or that the damage incurred was lower.
4. At the request of LSW, the Goods shall be transported by a transport or forwarding company of LSW's choosing.

### IV. Operating Regulations

1. Alcohol and any other drugs shall be strictly prohibited on the business premises of LSW. Any violations will be strictly punished by denying the guilty party access. If acceptance of any performance is impossible due to access to the plant being denied for an alcohol- or drug-related violation, LSW shall not be deemed in default of acceptance in this respect.
2. If any order for a contract to produce a work or a service is placed, appendix 2 of the "Industrial Safety, Fire and Environmental Protection Regulations DO 10-06-120" operating instructions, accessible and downloadable at <http://www.lech-stahlwerke.de/en/media/downloads/download-catalog.html>, must be observed and complied with.

### V. Performance, Delivery, Passing of Risk, Default in Acceptance

1. The Partner shall not be entitled to have third parties render the performance owed by it without the prior written consent of LSW. Unless agreed otherwise in the individual case, the Partner shall bear the risk of procurement for its performance (e.g. limitation to stock).
2. Delivery shall be performed DDP within Germany acc. to "Incoterms® 2020 (VAT or import turnover) tax unpaid" to the destination indicated in the PO.

If the destination is not indicated and nothing to the contrary has been agreed, the delivery address for rail shipments shall be "Herbertshofen Süd". The station of destination for general cargo shall be 86404 Meitingen 1065, general cargo guide number 1339. Apart from that, the delivery address shall be the registered office of LSW in Industriestraße 1, 86405 Meitingen.

3. The Goods must be delivered within the delivery times of LSW, i.e. Mon-Fri 6:00 a.m. - 2:00 p.m. No acceptance shall be performed on public holidays in Bavaria.
4. Every delivery must be accompanied by a delivery note stating date (issue and dispatch), delivery content (item number and quantity) and our PO identifier (order number and order date). If the delivery note is missing or incomplete, LSW shall not be responsible for any resulting delays in processing and payment. An appropriate dispatch note with the same content shall be sent to LSW separately from the delivery note.
5. The risk of accidental destruction and accidental deterioration of the items shall pass to LSW upon handover at the place of performance. Where acceptance has been agreed, it shall be authoritative for the passing of risk. Apart from that, the legal regulations of the laws on contracts to produce a work shall also apply, mutatis mutandis, to any acceptance. Handover or acceptance shall be equivalent if LSW is in default of acceptance.
6. Occurrence of default in acceptance by LSW shall be governed by the legal provisions. However, the Partner must also expressly offer its performance to LSW if any defined or definable calendar time for any action or cooperation by LSW (e.g. provision of material) has been agreed. If LSW comes into default of acceptance, the Partner shall be entitled to demand compensation for its demonstrated additional expenses acc. to the legal provisions (Section 304 BGB). If the agreement relates to an irreplaceable object to be manufactured by the Partner (custom-made item), the Partner shall be entitled to any further rights only if LSW has undertaken to cooperate and is responsible for the failure to cooperate.

### VI. Prices, Payment Terms and Invoicing

1. The price stated in the PO shall be binding. All prices shall include the statutory VAT, unless such tax has been stated separately.
2. Unless agreed otherwise in the individual case, the price shall include all performances and ancillary services of the Partner (e.g. assembly, installation) and all ancillary costs (e.g. proper packaging, transport costs incl. transport and liability insurance).
3. Invoices stating the order number shall be submitted after delivery has been performed. Sales tax shall be stated separately.
4. The agreed price shall be due for payment within 30 calendar days from full delivery and performance (incl. any agreed acceptance, if applicable) and receipt of a proper invoice. If LSW effects payments within 14 calendar days, the Partner shall grant LSW 3% cash discount on the net invoice amount. In case of bank transfer, payment shall be deemed effected in good time if our bank receives our transfer order before expiry of the payment term; we shall not be responsible for any delays by the banks involved in the payment transaction.
5. LSW shall not owe any default interest. Any default in payment shall be governed by the legal provisions.
6. Set-off and retention rights as well as the defence of unperformed contract shall be due to LSW within the limits of statutory regulations. LSW shall be entitled, in particular, to retain any payments due as long as LSW is still entitled to claims from incomplete or defective performances against the Partner.
7. The Partner shall have a right of set-off or retention only on account of legally established or undisputed counterclaims.

### VII. Secrecy

1. LSW reserves rights of ownership and copyrights to illustrations, plans, drawings, calculations, instructions, product descriptions and other documents. Any such documents must be exclusively used for the contractual performance and must be returned to LSW after execution of the agreement. The documents must be kept secret vis-à-vis third parties, even after termination of the agreement. The obligation to secrecy shall cease to apply only if and to the extent that the knowledge contained in the disclosed documents has become general knowledge.
2. The provision above shall apply mutatis mutandis to substances and materials (e.g. software, finished and semi-finished products) and to tools, templates, samples and other objects provided by LSW to the Partner for manufacture. Unless they are processed, any such objects must be kept separately at the Partner's expense and insured against destruction and loss to a reasonable extent.

### VIII. Ownership and Retention of Title

1. Any processing, mixing or combining (further processing) of provided objects by the Partner shall be effected for LSW. The same shall apply to any further processing of the delivered goods by us to ensure that we are regarded as the manufacturer and acquire ownership of the product in acc. with the legal provisions upon further processing at the latest.
2. Assignment of the goods to LSW shall be effected unconditionally and regardless of whether the price is paid. If in the individual case LSW accept any offer for assignment conditional on payment of the purchase price, however, the Partner's retention of title shall cease to apply upon payment of the purchase price for the delivered Goods at the latest. LSW shall remain authorised to re-sell the Goods in the proper course of business even before the purchase price is paid by assigning the arising claim in advance (alternatively: application of the simple retention of title extended to re-sale). All other forms of retention of title, especially any expanded and transferred retention of title and any retention of title extended to further processing, shall thereby be excluded in any event.



## IX. Defective Delivery

1. Unless provided for otherwise below, our rights in cases of material and legal defects in the Goods (incl. incorrect and short delivery as well as improper assembly, defective assembly, operating or usage instructions) and for other breaches of duty by the Partner shall be governed by the legal provisions.
2. The Partner shall be obliged to ensure compliance with all legal and safety-related regulations for restricted, toxic or hazardous substances in the country of manufacture and acceptance. Furthermore, the preceding terms reg. environment, electricity and electromagnetic fields must be observed. Energy efficiency shall be a valuation basis for procurement.
3. Acc. to the legal regulations, the Partner shall be liable, in particular, for ensuring that the Goods have the agreed quality upon passing of risk to LSW. Any product descriptions that are a subject matter of the respective agreement or have been included in the agreement in the same manner as these GTCP, especially by indication or reference in our PO, shall be deemed an agreement on the quality in any event.
4. By way of derogation from Section 442 Para. 1 S. 2 *BGB*, LSW shall also be entitled to claims for defects to an unlimited extent if the defect has remained unknown to LSW upon conclusion of the agreement as a result of gross negligence.
5. The commercial obligation to inspect and to give notice of defects shall be governed by the legal provisions (Sections 377, 381 *HGB* [German Commercial Code]) subject to the following proviso: The obligation of LSW to inspect shall be limited to such defects that become evident upon incoming goods control by LSW by external examination incl. the delivery documents (e.g. transport damage, incorrect and short delivery) or can be identified upon our quality control during sampling. Where acceptance has been agreed, any obligation to inspect shall not apply. Otherwise, it shall depend to what extent any inspection is feasible acc. to the proper course of business taking into account the circumstances of the individual case. The obligation of LSW to give notice of defects for any defects discovered later shall remain unaffected. LSW shall notify the contractor of any defects in the rendered performance once they are discovered within the framework of the proper course of business. The contractor shall waive the defence of delayed notice of defects in this respect.
6. Rectification shall also include removal of the defective goods and re-installation, provided that the Goods have been incorporated into any other object acc. to their intended purpose. The costs incurred by the Partner for inspection and rectification purposes (incl. any removal and installation costs) shall also be borne by it if it turns out that there had actually not been any defect. Liability of LSW for damages for any unjustified demand for remedy of defects shall remain unaffected; however, we shall be liable in this respect only if we have realised or failed to realise in a grossly negligent manner that there had not been any defect.
7. If the Partner fails to meet its obligation to rectification, at LSW's choice either by remedy of the defect (subsequent improvement) or delivery of an item free of defects (substitute delivery), within a reasonable time limit set by LSW, LSW shall be entitled to remedy the defect itself and to demand compensation of the required expenses and/or an appropriate advance from the Partner. If rectification by the Partner has failed or is unreasonable for LSW (e.g. due to special urgency, endangerment of operational safety or possible occurrence of unreasonable damage), setting of a time limit shall not be required; LSW shall immediately notify the Partner of any such circumstances, in advance, where possible.
8. Apart from that, LSW shall be entitled to a reduction of the purchase price or to withdraw from the agreement acc. to the legal provisions in case of any material or legal defect. Moreover, LSW shall be entitled to damages and reimbursement of expenses acc. to the legal provisions.

## X. Supplier's Recourse

1. The legally defined recourse claims of LSW within a supply chain (supplier's recourse acc. to Sections 478, 479 *BGB*) shall be due to LSW to an unlimited extent besides the claims for defects. LSW shall be entitled, in particular, to demand such specific type of rectification (subsequent improvement or substitute delivery) from the Partner that LSW owes its customer in the individual case. The legal option (Section 439 Para. 1 *BGB*) shall not be restricted by this.
2. Before LSW recognises or meets any claim for defects asserted by its customer (incl. reimbursement of expenses acc. to Sections 478 Para. 2, 439 Para. 2 *BGB*), LSW shall notify the Partner and ask it for a written position statement by briefly presenting the facts. If such position statement is not made within a reasonable time limit and no amicable solution can be found either, the claim for defects actually granted by LSW shall be deemed owed to the customer of LSW; in this case, the Partner shall be obliged to provide evidence to the contrary.
3. The claims of LSW from supplier's recourse shall also apply if the Goods have been further processed by LSW or any of its customers, e.g. by incorporation into any other product, before being sold to a consumer.

## XI. Manufacturer's Liability

1. If the Partner is responsible for any product damage, it must indemnify us from any claims of third parties to the extent that the cause falls under its control and organisation and it is liable itself vis-à-vis third parties.
2. Within the framework of its indemnity obligation, the Partner must reimburse any expenses acc. to Sections 683, 670 *BGB* that result from or in connection with any recourse by third parties incl. recalls by us. We shall notify the Partner of the content and scope of recall measures, where possible and reasonable, and shall provide it with the opportunity to make a position statement. Any further legal claims shall remain unaffected.
3. The Partner must take out and maintain product liability insurance with a minimum lump-sum amount of EUR 10 million per personal injury / material damage.

## XII. Statute of Limitations

1. Unless provided for otherwise below, the mutual claims shall become time barred acc. to the legal provisions.
2. By way of derogation from Section 438 Para. 1 No. 3 *BGB*, the general period of limitation for claims for defects shall be three years from the passing of risk. Where acceptance has been agreed, the limitations period shall start upon acceptance. The three-year period of limitation shall also apply, mutatis mutandis, to claims from legal defects, with the legal statute of limitations for third-party claims for surrender in rem (Section 438 Para. 1 No. 1 *BGB*) remaining unaffected; moreover, claims from legal defects shall not come under the statute of limitations in any event as long as the third party may still assert the right, especially in the absence of any statute of limitations, vis-à-vis LSW.
3. The periods of limitation under sale of goods law incl. the preceding extension shall apply, within the limits of statutory regulations, to all contractual claims for defects. To the extent that LSW is also entitled to non-contractual claims for damages due to any defect, this shall be governed by the standard statute of limitations (Sections 195, 199 *BGB*), unless applicability of the periods of limitation under sale of goods law result in any longer period of limitation in the individual case.

## XIII. Minimum Wage

1. The contractor shall assure compliance with the provisions of the Minimum Wage Act for the employment of their own employees. Upon request, the contractor shall be required to allow LSW to inspect the wage records of the employees employed by it in order to verify compliance with the provisions of the Minimum Wage Act.
2. If the Partner is entitled to engage subcontractors to render performance, it shall be liable for compliance with all further legal constraints.

## XIV. Foreign Trade

1. The Partner shall notify LSW in writing and as soon as possible, in any event in good time before the delivery date, of any approval obligations for its Goods acc. to the respective applicable German, European (EU), US export, customs and foreign trade legislation and acc. to the export, customs and foreign trade legislation of the country of origin of its Goods.
2. If the Partner culpably violates its obligations acc. to the paragraph above, LSW shall be entitled to demand compensation for any expenses and damage incurred by it and any other disadvantages (e.g. additionally claimed foreign import duties, fines).

## XV. Privacy

The contractor gives its revocable consent that any disclosed personal data will be handled or processed with regard to the specific order under observance of the legal provisions.

## XVI. Place of Performance, Choice of Law and Place of Jurisdiction

1. The place of performance for all obligations from the agreement shall be D-86405 Meitingen, Industriestraße 1, unless LSW has specified any other destination as the place of performance.
2. These GTCP and the contractual relationship between us and the Partner shall be governed by the laws of the Federal Republic of Germany to the exclusion of international uniform law, especially the UN Sales Law.
3. If the Partner is a merchant within the meaning of the German *HGB*, a legal entity under public law or a special fund under public law, the exclusive, also international, place of jurisdiction for all disputes resulting from the contractual relationship shall be our registered office in Meitingen, Industriestraße 1.
4. The same shall apply if the purchaser is an entrepreneur within the meaning of Section 14 *BGB*. However, we shall also be entitled in all cases to file a suit at the place of performance of the delivery obligation acc. to these GTCP or any primary individually negotiated terms or at the Partner's place of general jurisdiction. Primary legal regulations, especially on exclusive jurisdictions, shall remain unaffected.

As of: February 2020