

GENERAL TERMS AND CONDITIONS OF SALE

General

- 1.1 All quotations are made to the customer (the "Customer") and all orders for products or services (the "Goods") are accepted subject to the following conditions. All other terms, conditions and warranties whatsoever are excluded from the contract or any variation thereof unless expressly accepted by Laser Quantum GmbH (the "Company") in writing.
- 1.2 Quotations shall be available for acceptance for a maximum period of 90 days from the date thereof and may be withdrawn by the Company within such period at any time by written or oral notice.
- 1.3 If any statement or representation has been made to the Customer by the Company, its employees or agents upon which the Customer relies other than in the documents enclosed with the Company's quotation or acknowledgement of order then the Customer must set out that statement or representation in a document to be attached to or enclosed on the order and in any such case the Company may confirm, reject or clarify the point and submit a new quotation.

Delivery

- 2.1 Time for delivery is given as accurately as possible but is not guaranteed. The Customer shall have no rights to damages or to cancel the order for failure to meet any delivery time stated.
- 2.2 The date of delivery shall in every case be dependent upon receipt of all necessary information, final instructions or approval from the Customer. Alterations by the Customer in design, specification or quantity required may result in delay to deliver.
- 2.3 Failure of the Customer to take delivery of, or make payment in respect of one or more instalments of Goods delivered hereunder shall entitle to Company to treat the whole contract as repudiated by the Customer.
- 2.4 The Company will endeavour to comply with reasonable request by the Customer for postponement of delivery but shall be under no obligation to do so. Where delivery is postponed otherwise than by default due to the Company the Customer shall pay all costs and expenses including a reasonable charge for storage and transportation occasioned thereby and payment for the Goods shall be made in accordance with these conditions.
- 2.5 Any packaging supplied by the Company unless otherwise expressly agreed is intended to provide adequate protection throughout normal conditions of transit of usual duration.
- 2.6 The Company will not be responsible for unloading or for any damage thereby occasioned.

Risk and Title

- 3.1 Risk shall pass to the Customer so that the Customer is responsible for all loss or deterioration of the Goods:
 - 3.1.1 if the Company delivers the Goods by its own transportation or in accordance with a specific contractual obligation arranges transport for the Goods at the time when the Goods or a relevant part thereof arrive at the place of delivery or
 - 3.1.2 in all other circumstances at the time when the Goods, or a consignment or other part thereof leaves the premises of the Company.
- 3.2 Title in the Goods or any relevant part thereof shall only pass to the Customer upon the happening of any of the following events:
 - 3.2.1 The Customer has paid the Company all sums due and payable by it to the Company under this contract and all other prior contracts between the Company and the Customer or,
 - 3.2.2 When the Company serves on the Customer notice in writing specifying that the title on the Goods or such part thereof has passed.
- 3.3 The Company may recover Goods in respect of which title has not passed to the Customer at any time and the Customer hereby licenses the Company, its officers, employees and agents to enter upon any premises of the Customer for the purposes either of satisfying itself that condition 3.4 below is being complied with by the Customer or of recovering any goods in respect of which property has not passed to the Customer.
- 3.4 Until title of the Goods has passed to the Customer pursuant to the terms hereof it shall possess the Goods as a bailee of the Company on the terms of this contract. If the Company so requires, the Customer shall store the Goods separately from other goods and shall ensure that they are clearly identifiable as belonging to the Company.
- 3.5 The Customer shall only be at liberty to sell the Goods or any part of them, whether in their original state or combined with other goods, prior to the passing of title on the understanding that if the Customer does sell the Goods then the Customer will hold the whole of the proceeds of sale received by it including the proceeds of sale of other goods combined with the Goods on trust for the Company. The Company will, after all sums owing to the Company under this contract and any other sums owing by the Customer to the Company under any other contract or contracts in existence between the Company and the Customer at the date of the contract (whether or not such sums are then due for payment), have been settled out of the trust fund account to the Customer for surplus sums in the trust fund.

Cancellation

- 4.1 Cancellation will only be agreed by the Company on the condition that all costs and expenses incurred by the Company up to the time of cancellation and all loss of profits and other loss or damage resulting to the Company by reason of such cancellation will be paid forthwith by the Customer to the Company.

Prices

- 5.1 All prices are, unless otherwise stated, net exclusive of VAT, are subject to fluctuate in the event of any increase in the cost of labour due to local or national awards or increase in the cost of materials or overheads.
- 5.2 In the event of any alteration being requested by the Customer and agreed by the Company in design or specification the Company shall be entitled to make an adjustment of the contract price corresponding to such alteration.
- 5.3 The cost of carriage and insurance shall, unless otherwise stated or agreed by the Company, be charged extra and is not refundable.

Terms of Payment

- 6.1 Unless otherwise agreed by the Company in writing, payment shall be made 30 days after the date of despatch of the Goods or on the date that the Customer is advised that the Goods are ready for despatch. The Company shall be entitled to submit its invoice with its delivery advice note or at any time after despatch of the Goods save that where delivery has been postponed at the request of or by the default of the Customer the Company may submit its invoice at any time after the Goods are ready for despatch or would have been ready in the ordinary course but for the request or default as aforesaid.
- 6.2 Where the Goods are delivered by instalments, the Company may invoice each instalment separately and the Customer shall pay such invoices in accordance with these conditions.
- 6.3 No dispute arising under the contract nor delays beyond the reasonable control of the Company shall interfere with prompt payment in full by the Customer.

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- 6.4 In the event of a default in payment by the Customer the Company shall be entitled without prejudice to any other right or remedy to suspend all further deliveries on any contract or contracts between the Company and the Customer without notice and to charge interest on any amount outstanding at the rate of 4% per annum above the base rate according to §247 of the German BGB in force at the time when payment was due.

Shortages and Defects Apparent on Inspection

- 7.1 The Customer shall have no claim for shortages or defects apparent on visual inspection unless:
- 7.1.1 The Customer inspects the Goods within 3 working days of arrival at its premises or other agreed destination and
- 7.1.2 A written complaint is made to the Company within 7 working days of receipt of the Goods or such shorter period as the carriers conditions (if applicable) require specifying the shortage or defect and
- 7.1.3 The Company is given an opportunity to inspect the Goods and investigate the complaint before any use of or alteration to or interference with the Goods.
- 7.2 If a complaint is not made to the Company as herein provided then the Goods shall be deemed to be in all respects in accordance with the contract and the customer shall be bound to pay for the same accordingly.

Defects Not Apparent on Inspection

- 8.1 The Customer will have no claims in respect of defects not apparent on visual inspection at the time of delivery unless:
- 8.1.1 A written complaint is sent to the Company as soon as reasonably practical after the defect is discovered and no use is made of the Goods thereafter and no alteration made thereto or interference made therewith before the Company is given an opportunity to inspect the Goods in accordance with this condition and
- 8.1.2 The complaint is sent within twelve months of the date of delivery of the Goods or, in the case of an item not manufactured by the Company, within the guarantee period specified by the manufacturer of such item.
- 8.2 The Customer shall not be entitled to any claim in respect of any repairs or alterations undertaken by the Customer without the prior written consent of the Company nor in respect of any defect arising by reason of fair wear and tear or damage or misuse.
- 8.3 The Company shall not be responsible for any loss or damage suffered by reason of use of the Goods after the Customer becomes aware of a defect or after circumstances which should reasonably have indicated to the Customer the existence of a defect.
- 8.4 The Company may within 15 days of receiving a written complaint (or 28 days where the Goods are situated outside the European Union) inspect the Goods and Customer if so required by the Company shall take all steps necessary to enable the Company to do so.

Warranty

- 9.1 For the purposes of this contract warranty is construed according to the provisions for 'Mängelgewährleistung' of §434 if the German BGB. The burden of proof with respect to Goods defectiveness shall subrogate to the Customer after one half of the agreed warranty period has expired.
- 9.2 The Company accepts no responsibility for the failure of Goods to attain performance figures unless the Company has given a specific written assurance in a quotation or in a separate document issued subsequently.
- 9.3 In the event of the condition of the Goods being such as might or would (subject to these conditions) entitle the Customer to claim damages or to repudiate the contract the Customer shall not then do so but shall first ask the Company to repair or supply satisfactory substitute Goods and the Company shall thereupon be entitled at its option to repair or take back the defective Goods and to supply satisfactory substitute Goods free of cost and within a reasonable time. If the Company does so repair or substitute the Goods the Customer shall be bound to accept the repaired or substitute Goods and the Company shall be under no liability in respect of any loss or damage whatsoever arising from the initial delivery of the defective Goods or from the delay before the defective Goods are repaired or the substituted Goods delivered.
- 9.4 In the case of goods not manufactured by the Company the Company gives no assurance or guarantee whatsoever that the sale or use of the Goods will not infringe patent copyright or other industrial property rights of any person or firm.

Liability

- 10.1 Save where the Company is shown to have failed to exercise reasonable care in the supply of the Goods and such failure results in death or personal injury the Company shall not be liable in respect of claims arising by reason of death or personal injury. Further under no circumstances whatsoever shall the Company be liable for consequential loss (including removal or rectification work required with installation or repair or substitute Goods) loss of profits or damage to property.
- 10.2 The Company shall in no circumstances be liable to the Customer in respect of any loss damage or injury of any kind (which for the avoidance of doubt includes consequential loss or damage) whether suffered by the Customer or any other third party and howsoever caused (including being caused by any defect in failure of or unsuitability for any purpose of the Goods or by negligence whether in relation to design or manufacture of the Goods or at all) and all conditions, warranties or other terms whether expressed or implied, statutory or otherwise, are hereby excluded.
- 10.3 The Company shall not be liable for any loss of any kind (which for the avoidance of doubt includes consequential loss or damage) arising from any representation, statements, warranties, recommendations or advice made or given before the making of this contract.
- 10.4 In this Clause the expression "consequential loss" shall include loss of profits, loss of business revenue, loss of use or loss of goodwill whether of the Customer or any other third party.
- 10.5 Notwithstanding any clause herein stated, the Company's liability shall in no event exceed the total purchase price of the Goods actually paid by the Customer to the Company.
- 10.6 The Customer shall at all times use the Goods in compliance with all instructions and warning provided by the Company as well as in compliance with all applicable laws and regulations. The Customer acknowledges that the Goods can cause serious injury or death if used in violation of the foregoing. Accordingly, the Company shall not be liable for claims arising by reason of death or personal injury except if caused by any intentional or willful misconduct of the Company.
- 10.7 The Customer shall indemnify, hold harmless and defend the Company from and against all claims, liabilities and damages arising directly or indirectly out of any use of the Goods by the Customer, any of its customers or any of their respective employees, contractors, agents or invitees.

Insolvency

- 11.1 If the Customer should become bankrupt or insolvent or compound with creditors or in the event of a resolution being passed or proceedings commenced for the liquidation of the Customer (other than a voluntary winding up for the purpose of reconstruction or amalgamation) or if a Receiver or Manager or Administrator is appointed of all or part of its assets or undertaking the Company shall be entitled to cancel the contract in whole or in part by notice in writing without prejudice to any right or remedy accrued or according to the Company.

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Force Majeure

- 12.1 Neither party shall be under any liability for any delay loss or damage caused wholly or in part by an act of God, government restriction condition or control or by reason of any part done or not done pursuant to a trade dispute whether such dispute involves its employees or not or by reason of any other matter or thing beyond reasonable control including failure by the other party to carry out the provisions of these Conditions.

Proprietary Information

- 13.1 The Company's "Proprietary Information" means all information obtained by, disclosed to, or developed by the Company and that is based on, incorporates, constitutes, or is derived from any of the following: samples, schematics, drawings, designs, specifications, manuals, procedures and other technical, business, financial or trade secret information obtained from or through the Company, and all other proprietary and confidential information provided to the Customer. The Customer will not disclose, discuss or use any Proprietary Information. Further, the Customer shall not: (a) reverse engineer any Goods; (b) issue any press releases, advertise or make public statements regarding any Proprietary Information; (c) develop, design, manufacture, engineer or refurbish any Goods or parts or components of any Goods, including derivatives, improvements or equivalents thereof; or (d) assist any third party in any manner to engage in any of the foregoing activities. The Customer shall protect the confidentiality of the Proprietary Information and, at all times, use at least the degree of care that it uses to protect its own similar information.

Legal

- 14.1 The Contract shall be governed and interpreted exclusively according to the Law of Germany and shall be subject to the jurisdiction of the German courts only.
- 14.2 All disputes between the parties in relation to or in connection with this contract or any goods supplied or work done hereunder shall be referred to the arbitration of a single person appointed on the application of either party, by the President for the time being of the Institute of Electrical Engineers.

12th April 2019

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