

# GENERAL TERMS AND CONDITIONS OF LAPP AUSTRIA GMBH

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## 1. General

All our deliveries and services to entrepreneurs are based on our following Terms and Conditions, which are agreed upon with the acceptance of our performance even without the customer's express consent. The English text of the terms and conditions is an English translation of the German (original) text of our General Terms and Conditions, prepared to the best of our knowledge and belief. The customer's terms and conditions shall not apply even if we do not expressly object to them and perform the delivery. Deviations and additions by the customer are only validly agreed with our express written confirmation. They only apply to the transaction for which they have been agreed. The following Terms and Conditions shall apply to future contracts even in if they are not expressly agreed in future.

Within the framework of these Terms and Conditions, there are also regulations with regard to freight and shipping costs, cutting costs, minimum order values, delivery quantities, etc., which are contained in the "[Conditions supplement](#) to the General Terms and Conditions of Lapp Austria GmbH"

## 2. Offer, contract conclusion, written form

Our offers are always non-binding. After the customer has placed the order, the contract will be concluded when we send our written order confirmation, which shall also be legally valid in machine/electronic form and without signatures and names, or by our delivery. We are not obligated to accept orders. The content of the contract is derived from our order confirmation. Information provided prior to order as part of the order processing (for special cables, e.g. based on structural texts, drawings, product samples), in particular on performance, consumption or individual data, is only binding if we confirm this information in writing with the order confirmation or afterwards.

Our representatives have no authority to make warranty declarations or other declarations that deviate from the terms and conditions. Any such agreements require our written confirmation in order to be valid.

### 2.1. Online Shop

The conclusion of the contract in the Online Shop including invoicing shall not take place between us and the customer, but rather exclusively between the customer and U.I. Lapp GmbH, Schulze-Delitzsch-Strasse 25, 70565 Stuttgart, Germany, Commercial Register of the Local Court of Stuttgart HRB 12720, VAT ID no.: DE 147 823 795. The customer may contact U.I. Lapp GmbH quickly and directly in the following way. The electronic postal address of U.I Lapp GmbH is: [info.de.uil@lapp.com](mailto:info.de.uil@lapp.com). In this case, the General Terms and Conditions of the [Online Shop of U.I. Lapp GmbH](#) apply.

### 2.2. Data protection

Data protection is an important topic for LAPP. The customer has been provided with detailed information about the type and scope of the data storage for personal data under the heading "Data privacy declaration", which is also located at the foot of our website.

LAPP also uses cookies – small text files that make it possible to recognize the user and facilitate the use of the website – in order to facilitate the user relationship and its purposes. Further information on cookies can be found in the Privacy Statement.

The customer is entitled to view the personal data stored on them at any time and free of charge by the operator. This information shall be provided in writing or via email. The information request should be sent to LAPP Austria GmbH, Bremenstraße 8, 4030 Linz, Austria, and shall include an officially recognized identity document.

The customer may at any time withdraw their consent regarding the storage of its personal data request the correction of data stored about themselves by the operator. An email to [sales.at.lat@lapp.com](mailto:sales.at.lat@lapp.com) is sufficient to do this. If they withdraw their consent to the storage and processing of their personal data, the customer shall neither be able to use the Online Shop of U.I. Lapp GmbH nor other sales channels of LAPP Austria GmbH.

State-of-the-art technologies still cannot always ensure complete and total data protection when transferring data over the Internet. The customer shall therefore bear responsibility for the security of the data they transfer over the Internet.

For the data protection declaration, please refer to [www.lappaustria.at](http://www.lappaustria.at).

2.3. Contractual language: the contractual language is German. However, ongoing correspondence can also be conducted in English.

### **3. Prices, changes in business fundamentals**

All prices specified by us are non-binding unless we have confirmed them in our order confirmation. This is net plus the applicable sales tax, but does not include unloading. The basis for calculating the price is our valid price list. The prices valid on the day of delivery plus sales tax apply. The prices include a copper base of EUR 130.00/100 kg of copper and an aluminium base of EUR 100.00/100 kg of aluminium unless otherwise stated in the price quotation. The basis for calculating the final sales price is the weekly metal quotations for copper and aluminium in €/100 kg valid, from Friday of the previous week to Thursday of the following week. The metal quotations are continuously displayed on our homepage [www.lappaustria.at](http://www.lappaustria.at). The final sales price will increase or fall by the difference between the copper base already included in the price and the metal quotation on our homepage, which is available at the time of the order. If other metals (e.g. lead) are used, the charge is calculated in a similar way to the copper/aluminium price setting outlined above. The values specified in the offer are the starting point. Articles containing brass are subject to a percentage brass surcharge. Alloy surcharges can be charged for thermal and compensating cables. The cable cross-section, number of pairs of insulated wires and the alloy elements used are the basis for the calculation per 1,000 m. Alloy surcharges are also displayed on our homepage. The metal or raw material price, charges and allowances always apply purely net.

However, in the event of extraordinary changes (such as in the price of raw materials, various input materials or metal quotations), we reserve the right to make corresponding adjustments to our sales prices, surcharges and/or metal quotations. In this case, only the values published on our homepage apply. We are willing to confirm an order based on the following business fundamentals: (i) supply chain: the circumstances of our supply chain at the time of our order confirmation shall be decisive.

(ii) Energy prices: the prices that we pay for energy (electricity, gas, etc.) at the time of our order confirmation shall be decisive. **In the event that one or more of these business fundamentals change significantly after our order confirmation has been sent**, we shall have the right to either (i) terminate the contract that arose through the sending of our order confirmation with immediate effect by means of a written declaration to the customer, or (ii) unilaterally increase the agreed price in accordance with the changed business basis, or reduce quantities or not to meet one or several call-offs by the customer, or to offer other products with similar properties instead of the agreed products at the prices of the agreed products

3.1. The dispatch packaging will be charged separately or provided in the form of a loan. Single-use/multi-use/loan packaging will be charged according to our deposit and fee calculation. The respective conditions for transferring cable drums to KTG shall apply for delivery on cable drums from Kabeltrommel GmbH & Co. KG, Cologne (KTG). We reserve the right to send KTG or other cable drums for shipment. Grid boxes and Euro flat pallets are delivered for exchange. Our sales packaging is dispensed from obligations within Austria via a recognized recycling system. LAPP Austria is not obligated to take back sales packaging. If we willingly agree to take back sales packaging on the basis of goodwill, any transport and disposal costs shall be borne by the customer. The method of return shall be agreed with us in advance and this shall not be done without prior notice.

3.2. A flat-rate minimum value surcharge shall be charged for orders below a certain net order value including metal surcharges. A cutting length surcharge per special length shall be charged for desired special lengths outside our catalogue standards, i.e. in general 50/100/500/1000 m, or for ring and drum lengths that are not in stock. For minimum order values, minimum value and cutting cost surcharges, see the link on the [Supplement](#) to the General Terms and Conditions of Lapp Austria GmbH.

3.3. For freight costs and freight-free limits, see [Supplement](#) to the General Terms and Conditions of Lapp Austria GmbH. In the event of special shipments requested by the customer (e.g. urgent/express/guaranteed deliveries), the costs shall be borne by the customer. Additional costs due to refusal to unload on the part of the customer shall also be borne by the customer. There is no freight reimbursement for self collection.

3.4. If unforeseeable increases in material, wage or transport costs, taxes or levies occur between the conclusion of the contract and delivery, we shall be entitled to make a price adjustment in accordance with these factors if delivery is not to be made within four months of the conclusion of the contract. If the customer makes changes after the conclusion of the contract, we may adjust the prices in line with the additional costs caused by the change.

#### **4. Over-deliveries and under-deliveries/underlengths and excess lengths**

Over- and under-deliveries are permissible. The respective tolerance values can be found in the [link for the Supplement](#) to the General Terms and Conditions of Lapp Austria GmbH. Special products supplied by the metre are produced in production lengths. Delivery may be made in partial lengths. For technical manufacturing reasons, the order packaging lengths may be changed to several smaller partial lengths.

In cases where we over-deliver or under-deliver, deliver shorter or longer lengths, or change the length of the packaging, the customer shall be obligated to pay for what is actually delivered.

## 5. Dates and deadlines

We will comply with the delivery dates and deadlines specified in the order confirmation to the best of our ability. However, they only represent the expected delivery time and not a fixed or scheduled delivery time.

5.1. Delivery periods shall only commence after complete clarification of all details. The performance of deliveries is conditional upon a timely response to all queries, forwarding of all necessary or required drawings and documents or factory parts to be supplied, granting of all necessary releases and approvals, otherwise the delivery deadline will be extended accordingly.

5.2. A delivery period or a delivery date shall be considered as upheld if the consignment has been dispatched, if notification is provided that it is ready for shipping or it has been collected within the delivery period or by the agreed date.

5.3. We shall only be obligated to perform and deliver if the customer has made all agreed payments. If payments are made late, we may extend the delivery periods accordingly or refuse delivery.

5.4. If the non-compliance with a deadline or a date is due to force majeure, for example, due to mobilization, war, pandemic (even if not spread globally), riot, strike, lockout or other unforeseeable hindrances affecting our business, for which we are not responsible and which occurred or became known to us after conclusion of the contract, the deadline or date shall be extended accordingly. In cases of force majeure, we are entitled to not carry out an order or to take other measures to which we are entitled in accordance with point 3. in the event of a change in a business basis without the customer incurring any claims whatsoever against us as a result. This shall also apply in cases of unforeseeable events that affect the operations of our upstream supplier and for which neither our upstream supplier nor we are responsible.

5.5. If delivery is delayed at the request of the customer or for other reasons for which the customer is responsible, we may charge the costs incurred due to storage, or at least a storage fee of 0.5% of the invoice amount for each day that is overdue. The storage fee is limited to a total of 5% of the invoice amount unless we have demonstrably incurred higher costs. The customer is permitted to provide documentary evidence that any costs have not been incurred at all or are significantly lower than the flat-rate amount.

5.6. Partial deliveries are permissible.

5.7. The quantities and weights that we have delivered ex works or handed over for dispatch shall be decisive for the charge.

5.8. The customer shall be obligated to give us their UID number, as well as the other information necessary for checking tax exemption and to provide us with the documentary evidence necessary for verifying tax exemption. If the customer does not fulfil these obligations in good time, we shall not treat the delivery as tax exempt. The customer shall then be obligated to pay the respective VAT incurred. If we have wrongly accepted a delivery as tax-exempt on the basis of incorrect information provided by the customer, the customer shall indemnify us from the tax liability and bear all additional

expenses.

## **6. Dispatch, transfer of risk**

The dispatch shall be carried out at the customer's risk. We only take out insurance policies at the express request of the customer, which shall bear the cost for these.

## **7. Delivery, use of software**

7.1. Upon delivery of software, the customer is granted a non-exclusive and non-transferable right to use the software and the associated documentation for the operation of the goods for which the software is delivered. Apart from a backup copy, the customer may not make any copies. Copyright notices, serial numbers and other features serving to identify the software must not be removed or changed.

7.2. The customer shall be obligated to prevent unauthorized access to software and documentation by third parties by taking suitable precautions. It shall keep the delivered original data carrier as well as the backup copy in a place secured against unauthorized access by third parties. Their employees should be emphatically instructed that they must comply with this delivery condition as well as all copyright provisions.

## **8. Liability for damages due to breach of duty**

8.1. We shall only be liable for damage caused by us through intent and gross negligence and for which we are at fault, with the exception of personal injury. The injured party shall prove the degree of culpability. We shall not be liable for any subsequent damages (defects), damage to property and damage to third parties.

Claims for damages in cases of minor negligence are excluded. This does not apply to personal injury. Apart from personal injury, we shall only be liable if the injured party provides documentary evidence of gross negligence on our part. Claims for damages shall become statute-barred 6 months from knowledge of the damage and the party that caused the damage, or in any event 8 years after the service or delivery was performed.

In the event of a delay on our part, the compensation shall be limited to 1% for each completed week of delay and to a total of 10% of the order amount. Compensation in lieu of the performance shall be limited to 10% of the order amount.

Claims due to negligent omission of information about negative material properties of our products are excluded, except where this gives rise to a material defect, unless we have additionally undertaken in writing to provide the customer with express, separately invoiced advice against payment. The same applies to claims that the customer bases on the fact that we had not informed the customer about a certain application or usage possibility; such claims are also excluded. In case of doubt, we shall be deemed not to have given any advice. Our statutory liability under the German Product Liability Act [Produkthaftungsgesetz, ProdHaftG] remains unaffected by the above provisions.

8.2. Our liability for the loss or alteration of data is limited to the typical recovery expenses that would have been incurred if backup copies had been made at regular intervals and in accordance with the risk.

8.3. In the event that the customer processes our products or installs them into something manufactured by the customer, the following applies: We shall not be subject to any investigation, information or warning obligations as to whether our products are suitable for the type of further processing or installation selected by the customer, nor shall we be liable if it proves that this is not the case, contrary to the customer's expectations.

**8.4. Forbearance of use in critical applications: we hereby inform the customer that our deliveries and services are not suitable for installation in airplanes, helicopters, drones, hot-air balloons, spacecraft or aerospace ships, etc. or for any other use in the aerospace or aerospace industry.** The customer hereby **undertakes** vis-à-vis us to **forbear from using** our deliveries and services themselves **for these purposes**, and **from making our deliveries and services available** to third parties **for these purposes**. Should the customer violate these obligations, they are obligated to compensate us for any disadvantages that we incur as a result. **We shall be exempt from any liability** for compensation in the event that the customer or a third party incurs damage as a result of such unlawful use of our deliveries and services.

## **9. Notification of defects and warranty**

The buyer/purchaser shall always bear the burden of proof that the defect was already present at the time of handover. The warranty period is 6 months; in the case of immovable property, 1 year from delivery/service. In any case, warranty claims are subject to a proper notification of defects without undue delay as well as an inspection or testing of the goods without undue delay upon delivery. A prerequisite for a proper notification of defects in this sense is also that the customer describes the malfunction and its effect(s) for which the customer alleges the existence of a defect as precisely as possible.

9.1. If complaints of defects are raised in good time, the customer may request that the defect be rectified (improvement or replacement). If two attempts to rectify defects are unsuccessful (failed subsequent performance), we refuse rectification or if the remedy is technically impossible or economically disproportionate, the customer can request a price reduction or exchange.

9.2. No warranty is given for impairments of the delivery item due to natural wear and tear, damage after transfer of risk, or improper handling.

9.3. The customer shall be obligated to grant us the necessary time and opportunity for remedying the defect.

9.4. Our liability and warranty obligations shall lapse if attempts to rectify defects or changes to our delivery are made by the customer or by a third party, or if parts not delivered or not approved by us are used.

9.5. Should we declare our willingness to take back goods on the grounds of goodwill, we reserve the right to collect return costs up to 25% of the value of the goods including surcharges, but at least EUR 50. Returns of goods shall be agreed with us in advance and depend on the following criteria:

- the item must have been purchased from us;
- starting from the delivery date, the item must not be older than one year;

- the catalogue item must demonstrably be an undamaged, functional and original-packaged item in standard packaging unit or of standard length.

The EPIC range, special quantities/special lengths and custom-made products are generally excluded from return. After we have approved the return in the form of a return note, the return shipment shall be made by the customer against prior notice and at the customer's expense. Unannounced returns shall not be accepted and returned free of charge.

9.6. We only provide a warranty for the properties of our products that we have expressly promised in writing. We do not give any warranty for properties that are required by the customer but not agreed with us in writing. A warranty for the potential uses of the products expected by the customer is also excluded.

We are entitled to deliver products that deviate from the order provided that these products have the properties expressly agreed in writing between the customer and us (e.g. in accordance with a data sheet). We may also make use of this entitlement if the manufacturer of a product

changes the design or characteristics of the product, without however altering the properties promised to the customer.

## **10. Payment terms**

Invoicing shall be done upon dispatch. If goods that are ready for dispatch cannot be dispatched for reasons that fall within the customer's sphere of risk, the invoice shall nevertheless be issued and be due for payment. Unless otherwise agreed, our invoices shall be paid without deduction within 21 days of the invoice date.

10.1. In the event of a delay, we shall be entitled to demand default interest rates of 9.2 % above the base rate without proof of loss. The base rate applicable on the first calendar day of a half-year period shall be decisive for the respective half-year period. The assertion of further damages is not excluded. Payments shall always be credited against the oldest, due debt including interest on arrears, which are covered before the outstanding principal amount, unless the customer expressly declares a different designation.

10.2. Unless the customer claims material defects, it shall only be entitled to offset undisputed or legally enforced claims or exercise a right of retention due to such claims. If payments are withheld, the customer's counterclaim must be based on the same contractual relationship.

10.3. We shall only accept bills of exchange with our express prior consent. Bills of exchange or cheques are always accepted on account of performance.

10.4. Unconditional payment of our invoice shall be deemed an unconditional acceptance of our performance and a waiver of any contractual penalty that may have been triggered.

## **11. Retention of ownership**

11.1. The goods delivered by us remain our property until full payment has been made.

11.2. Insofar as goods which have already been paid for by the customer are concerned, the customer shall be entitled to process such goods and to resell processed goods. The right to resell processed goods shall lapse if third parties ask us to ensure that the customer does not resell such goods in future. The customer is only entitled to resell goods that have not been processed by the customer if we have given prior express written consent to such resale.

In the case of goods that have not yet been paid for by the customer, the customer shall only be entitled to process and, if necessary, resell the processed goods until revocation. The provisions of the preceding paragraph shall apply to resale of such goods that have not been processed by the customer.

The customer is not permitted to pledge or assign the goods subject to retention of ownership as security.

11.3. When processing, combining, mixing or blending goods subject to retention of ownership with other items or objects which do not belong to us, we shall have co-ownership of the new object proportionate to the invoiced value of the goods subject to retention of ownership relative to the other items or objects at the point in time when processing, combining, mixing or blending took place. If the customer acquires sole ownership of the new item, the contractual partners hereby agree that the customer shall grant us co-ownership of the new item in a share that is proportionate to the invoiced value of the processed or combined, mixed or blended goods subject of retention of ownership relative to the invoiced value of the other processed goods or items. Production wages, overheads and other imputed cost factors shall not be taken into account when calculating our co-ownership share. The customer shall be obligated to disclose to us at any time at our request the calculations of its use of goods in order to determine our co-ownership share.

11.4. The customer hereby assigns to us by way of security all claims from the resale of our goods subject to retention of ownership in the amount of the purchase price agreed with us; we hereby accept this assignment. The customer is obligated to ensure the necessary disclosure of this assignment in its IT accounting. If we wish to inform the third party debtor of the

assignment, the customer shall be obligated to name its contractual partner. We shall only consent to resale if an effective transfer of claims can be made based on the above-mentioned assignment. Whether or not it is changed due to processing, combining, mixing or blending, if the good subject to retention of ownership is resold together with other goods, the above-mentioned advance assignment shall only cover the invoiced value of the reserved goods resold with the other goods.

11.5. In the case of contracts for services or work performed by the customer with third parties, the fulfilment of which expires our retention of ownership, the customer's service or wages claim in the amount of the invoice value of the processed goods subject to retention of ownership is hereby assigned to us; we hereby accept this assignment.

11.6. Until revocation by us, the customer is authorized to collect the claims assigned to us in advance on our account in their own name. The authorization to collect shall expire even without our express revocation if the customer does not fulfil its obligations to us or if the customer suffers a financial collapse, in particular if an application for insolvency proceedings is made or opened, or if there are concerns that collected amounts cannot be transferred to us.

In the case of advance payments for service or wage claims partially assigned to us, the customer is obligated to first offset the advance payment against the part of the claim not assigned to us.

Between us and the customer, the partial amount not assigned to us shall always be deemed to have been repaid first by instalments collected by the customer.

11.7. The collection permission shall not authorize factoring. Nor do we agree to the assignment of the resale or pay claims assigned to us within under a genuine factoring agreement.

11.8. In the case of payments by check or bill of exchange, our retention of ownership and security rights shall remain unaffected and shall continue to exist until we are released from any liability arising from bills of exchange and checks.

11.9. At our request, the customer shall be obligated to provide written information at any time regarding the whereabouts of the goods subject to our reservation of ownership. The customer shall be obligated to name other co-owners as well as the debtors of the claims assigned to us, to provide us with all information on the assigned claims necessary for collection, to make available to us the documents necessary for collection, in particular the contractual documents and invoices, and to notify the debtor of the assignment whenever we might request such. The customer shall provide us with notices of assignment at any time. They are obligated to inform us without undue delay of any impairment of our rights of reservation of title or other securities, especially pledges.

11.10. If the customer acts in breach of contract, in particular, if they are in default of payment of a claim arising from the business relationship, or if the customer suffers financial collapse, suspends payments, if court insolvency proceedings are filed against them or if they ask their creditors for an out-of-court settlement, we may withdraw from the contract after setting a reasonable grace period and demand the return of the goods.

11.11. We pledge to release the securities to which we are entitled at the customer's request if the value of our securities is 20 % higher than the claims requiring securing. We shall have the right to select the securities for release.

## **12. Design and program changes**

We reserve property rights and copyrights to cost estimates, drawings and other documents; they shall not be made accessible to third parties without our express consent. We reserve the right to make construction and variant changes in the light of recent experience and improvements.

## **13. Onward delivery of goods abroad**

If a domestic buyer delivers goods abroad, the customer shall be responsible for checking whether the goods to be exported are subject to legal or contractual restrictions.

## **14. No Re-Export to Russian Federation**

1. The [importer/buyer] is prohibited from selling, exporting or re-exporting, directly or indirectly, to the Russian Federation or for use in the Russian Federation any goods supplied under or in connection with this Agreement that fall within the scope of Article 12g of Council Regulation (EU) No 833/2014.

The [Importer/Buyer] is prohibited from selling, exporting or re-exporting, either directly or indirectly,

to Belarus or for use in Belarus any goods supplied under or in connection with this Agreement that fall under the scope of Article 8g of Council Regulation (EU) No. 765/2006.

2. The [Importer/Buyer] shall undertake its best efforts to ensure that the purpose of paragraph (1) is not frustrated by any third parties further down the commercial chain, including by possible resellers.

3. The [Importer/Buyer] shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of paragraph (1).

4. Any culpable violation of paragraphs (1), (2) or (3) shall constitute a material breach of an essential element of this Agreement, and the [Exporter/Seller] shall be entitled to seek appropriate remedies, including, but not limited to:

- immediate termination of this Agreement for just cause; and
- a penalty of 10 % of the total value of the net value of the respective order whereas the [Importer/Buyer] is expressly permitted to prove that a damage has either not occurred or is substantially less than the penalty.

5. The [Importer/Buyer] shall immediately inform the [Exporter/Seller] about any problems in applying paragraphs (1), (2) or (3), including any relevant activities by third parties that could frustrate the purpose of paragraph (1). The [Importer/Buyer] shall make available to the [Exporter/Seller] information concerning compliance with the obligations under paragraph (1), (2) and (3) within two weeks of the simple request of such information.

#### **15. Place of performance, place of jurisdiction, final provisions**

The place of performance for all obligations arising from this Agreement, in particular for the payment of the purchase price, and the place of jurisdiction is Linz. We shall nevertheless be entitled to institute legal proceedings at the customer's place of residence. Austrian law shall apply exclusively. The UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.

Should individual provisions of these Terms and Conditions be or become invalid, this shall not affect the validity of the remaining provisions if a reasonable provision remains in the overall structure of the contract.