

**I. General – scope of application:**

1. These General Terms and Conditions (“GTCs”) shall apply to all contracts concluded with LCI Engineering Ing. Christoff Langthaler GmbH (hereinafter referred to as “LCI”), and to all services provided by LCI, in particular sorting and reworking of parts. Diverging stipulations, in particular any terms and conditions of LCI’s contractual partner which contradict these GTCs, shall only be deemed to be agreed if they are expressly confirmed in writing by LCI as being applicable in place of these terms and conditions. Actions on the part of LCI for the purpose of the contractual performance shall not be deemed in this respect to constitute agreement to diverging contract terms of the contractual partner.
2. In the event of an ongoing business relationship, the valid version of these GTCs shall apply to all future business transactions without specific notification of this or reference to it. This shall apply particularly in the event of call-off or follow-up orders, verbally or by telephone.
3. Business correspondence, such as order confirmations, invoices, credit notes, account statements and payment reminders, printed by LCI by means of data processing or sent by e-mail, are valid and legally binding even without a signature.

**II. Offers and conclusion of a contract:**

1. Offers by LCI are without obligation. Commissions shall only become binding on the basis of written order confirmations (in particular by signing the on-site agency and service contract or by approving the order for sorting and reworking of parts), unless the performance ordered has already been provided by LCI or has been invoiced. Assurances by on-site employees shall have no legal force. Actions by on-site employees in carrying out the services do not result in acceptance of an order but do form the basis for any subsequent claims by LCI.
2. The contractual partner consents that his customer can commission LCI with legal effect with sorting and reworking of parts work at the contractual partner’s expense. To the extent that LCI executes these orders, the contractual partner shall be charged for these services. LCI is not obliged to check the legal basis or the necessity of such orders.
3. Agreement should be reached for any changes to the scope of on-site agency and service work, otherwise these amended services shall not be deemed to be commissioned. Changes in the scope of performance shall only be deemed to be agreed after written agreement from LCI.
4. Objectively justified and reasonable changes to the obligation to provide services and to deliver, in particular reasonable extensions of the delivery term, shall be deemed to be approved in advance.
5. Property rights and copyrights, especially rights with respect to reproduction and distribution, concerning drawings, designs, calculations and other documents, which the contractual partner obtains in connection with an offer from LCI shall remain with LCI. These documents shall not be made available to third parties, except for in cases of resale in accordance with stipulations, and are to be returned to LCI on request, if the contract does not come about.
6. The contractual partner shall be liable for the accuracy of the documents delivered to him, such as specimens, drawings, work instructions, etc.

### **III. Prices:**

1. If no other agreements have been made to the contrary, LCI shall receive for its work
  - a) in connection with the on-site agency and service contract a monthly flat-rate fee to be agreed,
  - b) in connection with the acceptance of defective goods and inspection as well as sorting and reworking of parts, a fee calculated on an hourly rate.

This fee is shown exclusive of value added tax. The amount is to be transferred without any deduction into LCI's account.

2. In the absence of any specific agreement to the contrary, exceptional agency tasks as well as training on-site and travel costs are to be refunded by the contractual partner.
3. In the event that the dates for the provision of the service are postponed through no fault of LCI, it shall reserve the right to enforce cost increases. Should the wage costs and/or procurement costs of the materials to be used change between the conclusion of the contract and the execution of the service, whether by law, decree, collective treaty, constitution, regulatory recommendation, other official measures or as a result of changes in world market prices, then the prices to be used shall be increased or reduced accordingly, unless there are less than two months between the placing of the order and the execution of the service.

### **IV. Delivery:**

1. On-site agency and service contracts shall be concluded for an indefinite period, in the absence of any specific agreement to the contrary. They may be terminated in writing in compliance with the agreed cancellation periods and deadlines. Temporary contracts shall be extended after expiry of the contract period into indefinite contracts, unless they are terminated beforehand or the contract stipulates otherwise.
2. Provided delivery and completion dates have been agreed (in particular in the case of acceptance of defective goods and inspection as well as sorting and reworking of parts), these are always non-binding, unless a fixed date has been expressly agreed upon. Notwithstanding any specific agreement to the contrary, the term of delivery shall commence when the contract comes into effect. In any case, the term of delivery shall not start to run until the materials, documents and official authorisations to be procured by the contractual partner and the support and advance payments to be provided by it have been supplied. The term of delivery for commissioned sorting and reworking of parts work shall commence only after the reason for the reclamation by the contractual partner's customer, and the scope of the action and the full work instructions are available.
3. If the commencement of the execution of the services or the execution itself is delayed and if the delay is due to circumstances outside LCI's control, the terms and dates of delivery and completion shall be extended at least for the duration of these circumstances (this applies in particular in the case of acceptance of defective goods and inspection as well as sorting and reworking of parts). In this case, the additional costs which accumulate as a result of delays are to be borne by the contractual partner.
4. In the cases outlined in the above point, LCI is free to withdraw from the contract without any obligation to pay compensation; this also applies at the discretion of LCI to subsequent services which are not yet due.

5. The contractual partner agrees that acceptance of defective goods and inspection as well as sorting and reworking of parts work may also be carried out by a third party at the discretion of LCI.
6. Within the context of on-site agency and service contracts, and in the absence of any specific agreement to the contrary, LCI must send regular reports and information about these services electronically to the contractual partner. The services by LCI are deemed to be duly carried out if these reports and this information are not challenged by the contractual partner within 3 working days and the contractual partner has not notified defects within this period in accordance with Point VII para.1.
7. Sorting and reworking of parts is carried out according to the written procedure as commissioned by the customer. The contractual partner agrees that the operating procedures of the customer's works shall apply, even if they deviate from the contractual partner's procedures. The actual labour costs involved are calculated at the agreed hourly rate. The basic contract for sorting and reworking of parts can be correspondingly adjusted according to the operating procedures of the customer's works; the rest of the agreement shall remain unaffected. Specific properties and handling of the products are to be recorded as an integral part of the order in writing in the instruction form before the commencement of the work and cannot be presupposed (e.g. do not shake, do not turn, pressure-sensitive, etc.). Expenses incurred when the work commences are to be documented in a summary sheet as proof of performance and attached to the invoice. Where new circumstances arise during execution of the work, according to which sorting and reworking of parts is to be carried out (e.g. other errors, greater customer need, etc.), these shall be notified to the contractual partner by LCI. Should there be no reaction, this additional sorting and reworking of parts shall be deemed to be commissioned until the contractual partner gives written instructions to the contrary. The additional costs which are incurred shall be deemed to be approved in advance. The completed and designated parts under the contract shall be handed over to the customer works and any unusable parts handled according to the contractual partner's specifications. LCI can only process those parts which are provided by the contractual partner. Parts which are not made available to LCI can only be handled after the handover. LCI shall not be held responsible for any consequences.

## **V. Payment:**

1. Notwithstanding any specific agreement to the contrary, LCI is entitled,
  - a) to issue invoices monthly for on-site agency and service contracts; the flat-rate fee is due on the first day of every month;
  - b) to issue ongoing invoices for services quoted with an hourly rate, in particular for the acceptance of defective goods and inspection as well as sorting and reworking of parts for example. The fee is due 14 days from the date of the invoice.
2. The timeliness of the payment is dependent in any case upon payment of the fee into LCI's account without any deduction.
3. In the case of the term of payment being exceeded, the deadline being missed or where there is default in acceptance, LCI is entitled to calculate default interest and compound interest at 8 percentage points above the base rate of the Österreichische Nationalbank (Austrian National Bank), however at least 10% p.a.. In the case of default, the contractual partner is also obliged to compensate, in addition to the default interest, all other appropriate procedural and non-procedural costs of the collection, including also the costs of a lawyer brought in by LCI. Furthermore, LCI is entitled to delay the fulfilment of its own obligations until the payments in arrears have been settled, to claim a reasonable extension to the term of delivery or to call for the termination of the contract for good cause after granting an adequate period of grace.

4. The entire outstanding amount due to LCI shall become immediately due for payment, irrespective of any terms of payment, if distraint has been carried out unsuccessfully on the contractual partner's assets, or the sale of real estate assets has been granted by court order or forced administration has been authorised, or if the creditworthiness is reduced in any other way (in particular through the opening of an insolvency procedure). In these cases, LCI is entitled to carry out outstanding services only against advance payment or security, to call for the termination of the contract for good cause without giving a period of grace, or to demand compensation for non-fulfilment.

#### **VI. Warranty:**

1. The contractual partner has to give notice of defects immediately after the services have been performed, in any case within 3 working days of LCI's report and, in the case of hidden defects, after discovery of the defect, by means of a registered letter stating the type and extent of the defect, so as not to preclude any claims. If a notice of defect is not issued or not issued in good time, the services carried out are deemed to be accepted. In any case, the contractual party must provide proof that the defect was already present when the services were performed.
2. LCI is only obliged to provide a warranty if the contracting party has fulfilled its payment obligations in full.

#### **VII. Compensation for damages:**

1. LCI is not liable for basic gross negligence, with the exception of cases of personal injury. Furthermore, LCI is not liable for consequential loss and loss of profits.
2. The liability of LCI is also limited depending on the level by those amounts for which it is covered by its liability insurer in the event of a loss. The liability of LCI for property damage only exists for the current value at the time of the loss.
3. A prerequisite for claims for damages against LCI is the full and timely notification of defects in accordance with point IV para. 6 and VI para. 1.
4. Claims shall become time-barred within 6 months of notice or negligent ignorance of the claim and the liable party. The contracting party must provide evidence of cause, unlawfulness and fault.

#### **VIII. Setting-off, right of retention, right to withhold performance:**

The contractual partner is only entitled to set off payment against counter claims or to assert rights to withhold performance or rights of retention if these have been recognised in writing by LCI or been legally established by a court.

#### **IX. Place of performance – applicable law – place of jurisdiction:**

1. Notwithstanding any agreement to the contrary, the place of performance for all claims arising from the business relationship with the contractual partner is Vienna.
2. In the absence of any specific agreement to the contrary, Austrian Law shall apply to the contractual relationship between the parties, to the exclusion of international conflict rules.
3. The competent court for Vienna shall have sole jurisdiction for all disputes arising from or in connection with a contractual relationship in which LCI is involved as a contractual partner.

# General Terms and Conditions of LCI Engineering Ing. Christoff Langthaler GmbH



## **X. Other provisions:**

1. If any provisions of these GTCs should be or become ineffective in whole or in part, the other provisions shall remain unaffected. The ineffective provision shall be deemed to be replaced by a provision that achieves, as nearly as possible, the business purpose of the ineffective provision.
2. All agreements, subsequent changes, amendments, subsidiary agreements, etc., must be agreed in writing in order to be valid. This also applies to the renunciation of the written form requirement.

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