

General Conditions and Terms



governing the contractual trade relationships between the parties, namely **LUFBERG s. r. o.**, Reg. No. 28779690, with its registered office at Pernerova 780, 565 01 Choceň, enrolled in the Register of Companies maintained by the Regional Court in Hradec Králové, Section C, Entry 26884, as the Seller and their customers as the buyers

I. Conclusion, and form and content of a purchase contract

1. The contracting parties declare that they act as entrepreneurs.
2. The contracting parties have expressly agreed that a **purchase contract shall only be deemed to have been concluded between them after any specific order placed by the buyer is confirmed by the seller in writing**. The requirement for the confirmation to be made in writing shall also be deemed complied with if communication via the seller's email address, objednavky@lufberg.eu or info@lufberg.eu, is used.
3. Any changes or additions to any purchase contract concluded as well as any notices or other unilateral legal acts taken by either contracting party in the context of any purchase contract (e.g., termination) must, on pain of being void, be furnished in writing, which also denotes communication via the seller's email address, objednavky@lufberg.eu or info@lufberg.eu. The requirement for any legal act to be made in writing in order to be valid and enforceable also applies to any action resulting in the conclusion of a purchase contract via the seller's representatives or other agents.
4. Any and all legal relationships between the contracting parties shall be governed by the seller's General Conditions and Terms, and the application of the buyer's conditions and terms, where relevant, is hereby excluded unless the buyer protests this within 2 business days of the parties exchanging their expressions of intent. In such a case, no purchase contract shall be concluded.
5. The seller's Conditions and Terms, as amended, are available at the seller's website at www.lufberg.eu and sent or submitted to parties interested in entering into a purchase contract in response to the initial contact established between the buyer and the seller, generally through the submission of a proposal to enter into a purchase contract (order).
6. The present Conditions and Terms form a part of all purchase contracts to be entered into between the contracting parties. Each purchase contract shall further include any trade practices established between the contracting parties unless the same are in conflict with the content of the purchase contract or the present Conditions and Terms,
7. By entering into a purchase contract, the buyer confirms their approval of the present Conditions and Terms and also agrees to the processing of personal data under the "Lufberg Privacy Policy" - see www.lufberg.eu
8. All offers submitted by the seller are not binding as a rule unless expressly identified otherwise by the seller. Any supporting documents annexed to the offers only serve as information for the buyer and must be sent back on request.
9. Any oral or written understandings made prior to the conclusion of any purchase contract by the two contracting parties and related to the transaction to be executed under the prospective purchase contract between the contracting parties shall become void unless they are incorporated into the purchase contract, or if they are inconsistent with the present Conditions and Terms.
10. In order for any technical data, information on properties and other characteristics of the goods to apply, they must be incorporated into the respective purchase contract, in which case they will prevail over the information given in any informational or promotional materials.

II. Material breach of a purchase contract by a purchaser and seller's right to withdraw from a purchase contract

11. If the buyer breaches the purchase contract in a material manner, the seller may withdraw from the purchase contract.
12. Material breach of the buyer's obligations denotes any breach of the buyer's statutory and contractual obligations, including, without limitation, their obligation to properly discharge any debts towards the seller in a timely fashion (point 33); the obligation to provide any cooperation to the seller necessary for the supply of goods to take place as provided for under the purchase contract, and for the seller to comply with all of their contractual and statutory obligations (point 36); or a breach, by the buyer, of their obligations related to the export of the goods abroad (Art. VIII).
13. The undertaking shall be deemed dissolved in its entirety in the event of withdrawal from the purchase contract. If the buyer only discharges a part of their obligations, the seller may withdraw from the purchase contract in relation to the obligations that have not been discharged by the buyer. However, if the seller is not interested in the buyer's partial performance, the seller may withdraw from the entire purchase contract.
14. The withdrawal from the purchase contract shall be without prejudice to any right to a contractual fine or default interest, or the right to compensation of any damages resulting from the breach of a contractual obligation.
15. If they withdraw from the purchase contract, the seller may sell the goods that constitute the subject of the purchase contract to another party.
16. If it clearly follows from the conduct of the buyer that they are about to breach the contract in a material manner and unless, at the request of the seller, the buyer provides reasonable assurances, the seller may withdraw from the purchase contract.
17. If the buyer does not comply with their obligations under the contract and if they breach the contract in a material manner (especially by failing to pay any debts under the purchase contract), the seller may suspend their supplies under any other purchase contracts entered into without being late discharging their obligations. If that is the case, the seller may request that the full purchase price be paid in advance. Unless the buyer discharges their obligations within an additional time period, the seller may withdraw from all purchase contracts entered into between the contracting parties, under which the buyer has not yet discharged their obligations at all, or under which the buyer has only discharged a certain proportion of obligations.

III. Purchase price for the goods, packing and transport costs

18. The agreement on the purchase price shall be regarded as an essential part of any purchase contract and no purchase contract shall be established without such an agreement in place (or at least without an agreement regarding the method of determining the purchase price in place).
19. All purchase prices with regard to the goods apply on the day the goods are accepted by the buyer ("Ab Werk", Ex Works") and unless explicitly agreed otherwise, they do not include the costs of packing, loading onto a transport vehicle, transport and insurance. Value added tax calculated using the statutory rate in force at the time of the transaction shall be added to purchase prices.
20. Any payments received from the buyer shall be progressively counted towards their oldest debts, and first towards the principal of such a debt and only then to any interest and fines relating to the debt.
21. If, after a purchase contract is concluded, the buyer requests that the quantity of the goods already ordered be increased, the seller is under no obligation to accommodate the buyer's request. However, if the seller does accommodate such a request, they may supply the goods and request such a purchase price for the goods that is applicable on the day the goods are accepted, as per the seller's pricelist in force.
22. The packaging costs and the costs of packing the goods shall be borne by the buyer unless stipulated otherwise, with the amount of the costs to be added to the purchase price for the goods. Unless explicitly agreed otherwise the packaging and fixing materials used shall not be returned to the seller.
23. Unless agreed otherwise, the transport of the goods shall be organised by the buyer at their own expense. Unless agreed otherwise, if the price of the purchased goods exceeds CZK 3,000, excl. VAT, the transport of the goods within the territory of the Czech Republic shall be organised by the seller at their own expense. For international transport, unless agreed otherwise, the transport of the goods shall be organised and paid for by the buyer at all times.
24. If the buyer requests a certain type of packaging and/or a certain method of packing in respect of the goods, the buyer must supply the special packaging to the seller in a timely fashion. If the contracting parties agree that such special packaging or packing shall be procured by the seller, the purchase price for the goods shall be increased by the value of the extra costs thus incurred. If transport items owned by the seller are used for the above purposes (such as boxes), the buyer undertakes to return them to the seller with their condition unchanged, at the latest within four weeks of accepting the goods. The costs associated with the return of the transport items shall be borne by the buyer.

IV. Payment terms and seller's right of withdrawal

25. The seller undertakes to issue to the buyer an invoice stating the purchase price and containing at least the following essentials:
 - a) invoice identification and invoice number,
 - b) name and registered office of the seller's and the buyer's companies,
 - c) order number (purchase contract number), under which the supply has taken place, and delivery note number,

- d) indication of the goods or service and delivery date,
- e) full indication of the financial institution and the account number, to which the payment should be made,
- f) the purchase price expressed per unit of quantity or otherwise including any other items (e.g., packing charge),
- g) date of dispatch of the invoice and the payment term,
- h) total invoiced amount,
- i) tax,
- j) date of the taxable supply.

26. The buyer may not withhold the payment of the agreed-upon purchase price due only to errors in the content or form of the invoice. The buyer must inform the seller of such irregularities without undue delay so the seller can immediately revise the invoice.

27. The purchase price shall be payable within 14 days of the date of the invoice.

28. The invoices shall be delivered along with the goods, or to the buyer's data box, or where explicitly agreed, to the buyer's email address, or by surface mail to the address of the registered office of the buyer entered in the Register of Companies or any other register or public list.

29. The payment shall be deemed made once the amount is credited to the other party's account, or after the receiving party confirms reception of the payment in writing unless the payment is made via wire transfer. Payments by checks or bills shall only be deemed completed after they are cashed.

30. The seller may refuse any payment by check, bill or any other voucher if they have not granted their prior express consent with such a payment.

31. The costs of any discounts and collections shall be borne by the buyer unless stipulated otherwise in the order confirmation.

32. Following the conclusion of a purchase contract, the seller may request an advance payment equivalent of up to 100% of the agreed-upon price. Unless the buyer makes the partial payment in a timely fashion, the seller may withdraw from the purchase contract.

33. The buyer undertakes to properly pay all their debts towards the seller in a timely fashion.

34. In order to be eligible for offset, the contracting parties' mutual receivables must be enforceable in court. Indefinite or uncertain receivables are not eligible for offset.

35. In the event of a complaint, the buyer may withhold payment of a portion of the purchase price that, by estimate, reasonably corresponds to their right to discount, until the defect is removed. The above portion of the purchase price shall only be settled after the complaint procedure is brought to an end and depending on its outcome.

V. Delivery of the goods, right of withdrawal in the event of late delivery and late acceptance of the goods

36. The buyer must provide the seller with any cooperation required for the goods to be delivered under the purchase contract and allow the seller to comply with their contractual and statutory obligations.

37. Partial deliveries of the goods ordered under a single purchase contract are possible unless expressly agreed otherwise.

38. The place of performance is the seller's headquarters.

39. The seller shall be deemed to have complied with their obligation to transmit the goods to the buyer as soon as they make it possible for the buyer to handle the goods at the place of performance. Unless the seller communicates an earlier day to the buyer, on the last day of the agreed-upon delivery period, the goods are ready to be collected by the buyer at the place of performance. The seller is not obligated to provide a special notice to that effect to the buyer.

40. If the seller dispatches the goods as specified under the purchase contract, the seller shall be deemed to have transmitted the goods to the buyer once the goods are transmitted to the first carrier for transport to the buyer. If the goods are dispatched, the goods shall be deemed effectively handed over to the buyer after they are transmitted to the carrier. The seller is obligated to provide clear and sufficient identification of the goods as a consignment for the buyer as per the data in the order.

41. If the buyer is late accepting the goods, the seller may only withdraw from the purchase contract after the lapse, in vain, of a reasonable additional time period specified by the seller (which, in any event, must be at least fourteen days)

42. If the seller is late handing the goods over for more than one month, the buyer may only withdraw from the purchase contract after the lapse, in vain, of a reasonable additional time period specified by the buyer (which, in any event, must be at least fourteen days).

43. The seller shall not be deemed late delivering the goods if they cannot comply with the agreed-upon delivery term due to objective reasons in the form of extraordinary unforeseeable obstacles beyond their control, such as power loss or shortage of raw materials, strikes, lock-outs, administrative measures or delays or drop-outs in subcontracts. The seller undertakes to notify the buyer of any obstacles in the way of the timely delivery of the goods without undue delay and as soon as they find out or learn about it, and communicate the anticipated delivery term. If the obstacle persists, or is anticipated to persist, for more than one month the contracting party may withdraw from the purchase contract.

44. Should the buyer require that the purchase contract be amended in any way before the goods are handed over, then, if accepted, the requirements shall cause the delivery term to be extended accordingly. If the seller accepts the buyer's requirements for a change in the quality of the goods before the latter are handed over, the seller may adjust the agreed-upon price accordingly. Any costs resulting from such changes in deliveries requested by the buyer shall be borne by the buyer.

VI. Retention of title

45. The seller shall retain the title to the goods sold. Consequently, the buyer shall only become the owner of the goods after the full purchase price is paid.

46. If the supplied goods are mixed or combined with other items, then by having signed the purchase contract, the buyer has assigned to the seller the right to receive the goods, as well as the ownership or co-ownership title to the mixed item or new item, free of charge, and shall keep the mixed or new item in custody with due diligence.

47. The buyer may only resell the goods subject to the retention of title under proper business transactions. Other than sell them, the buyer may not dispose of the goods in any other way (i.e., pledge the goods, or use the goods as a guarantee with regard to third parties).

48. When selling goods subject to the retention of title to third parties, the buyer must retain their title to the goods vis-a-vis the third parties. With the conclusion of the purchase contract with the seller, the buyer automatically assigns, free of charge, all receivables resulting from the resale of the goods or arising otherwise to be secured by the seller, and shall inform their debtors accordingly. The buyer may collect the receivables.

49. If their receivables are mature, the buyer must keep the collected amounts separately and transfer them to the seller without undue delay. The buyer must immediately communicate to the seller any third party interventions in the goods subject to the retention of title, or in the receivables assigned. Any intervention costs shall be borne by the buyer.

50. The buyer's right to process and sell the goods subject to the retention of title and collect the receivables assigned as provided for above shall cease to apply if the payment terms are not adhered to, a petition is filed to launch insolvency proceedings, payments are suspended, or the company enters into liquidation. If any of the above is the case, the seller shall take the goods back. The seller's doing so shall only amount to the effective withdrawal from the contract if the seller makes a clear and express statement to that effect.

51. The costs of storage, transportation and other costs incurred as a result of the take-back shall be borne by the buyer. In addition, if the above is the case, the buyer must communicate the assignment of the ownership title and receivables to third party debtors on request and provide the seller with any information required for the seller to apply their rights with regard to such debtors and issue the necessary related documents.

52. The seller may retain any revenues from the take-back of the goods under the retention of title and, instead of the book value, charge the price applicable on the day of the take-back, or the price they could have achieved if the goods had been used or sold as originally planned, while any costs associated with the sale shall be borne by the buyer at all times.

VII. Passage of the risk of damage

53. The risk of damage shall pass to the buyer at the time they collect the goods. The same applies if the buyer fails to collect the goods after the seller made it possible for the buyer to handle the goods.

54. If the seller transmits the goods to a carrier at the place of performance, the risk of damage passes to the buyer once the goods is surrendered to the carrier at the place of performance.

55. Any damage to the goods occurring after the risk of damage to the goods passes to the buyer shall be without prejudice to their obligation to pay the entire purchase price to the seller.

VIII. Export of the goods abroad by the buyer

56. If the buyer intends to export the goods abroad (i.e., outside the territory of the Czech Republic), they must communicate the fact to the seller no later than at the conclusion of the purchase price.

57. Unless a prior written agreement is reached with the seller, the buyer may not export the goods representing the subject matter of the purchase contract, either separately, or in combination with other products, or as part of other products, not even via third parties. The buyer must arrange for this obligation to be adhered to by their customer using contractual means.

58. The buyer must fully compensate the seller for any damage incurred as a result of the violation of the obligations under the present Article.

IX. Liability for defects and warranty

59. The goods that form the subject matter of the purchase contract must exhibit the properties required by the buyer under a valid purchase contract, or alternatively, the properties stipulated under relevant technical standards, or reasonably anticipated with regard to the type of goods concerned.

60. Under the purchase contract, the contracting parties may agree on deviations from such common properties, with limited and unlimited effect, and reflect such deviations from the standard properties in the price arrangements.

61. Any complaints regarding the quantity or apparent defects of the goods must be applied without undue delay after the risk of damage to the goods passes to the buyer. This obligation shall be deemed complied with if a complaint is lodged within no more than five business days after the buyer accepts the goods. A complaint shall be deemed lodged in time if it is delivered to the seller by the last day of the time limit.

62. If the defective goods represent a material breach of the purchase contract, the buyer must communicate to the seller, as part of the defect notification, whether they request that the defect be redressed by a supply of new goods, or a supply of the missing goods, or whether they request that the defects of the goods be repaired, or whether they intend to claim a reasonable discount from the purchase price, or whether they intend to withdraw from the purchase contract. Once they make their choice, the buyer may not change it without the seller's consent.

63. The seller provides a quality warranty in respect of the goods, as specified in the technical sheets attached to the goods, namely a 5-year warranty for DA- and FS-type servo-drives, and 2-year warranty for BV-, ZV- and FV-type valves as well as for other non-specified products of the seller. The warranty period starts on the day the items are transmitted to the buyer, or on the day regarded as the handover date.

64. The buyer shall not have any rights under the warranty if:

- a) the goods are used in areas other than those specified in the technical sheets and assembly sheets (e.g., on board of planes and other airborne carriers);
- b) the goods have been used in a manner that is inconsistent with the applicable legal regulations, decisions of competent state administration bodies or seller's instructions concerning assembly, commissioning, the necessary operating conditions for the use of the goods, instructions and data in technical sheets and assembly sheets;
- c) the goods have been used in non-standard conditions, including, without limitation, such conditions where they were permanently exposed to the effects of aggressive chemicals, gases or liquids, or used in settings where the relevant operation parameters and conditions of use were exceeded;
- d) the goods have been inappropriately assembled or installed;
- e) the goods have been used or installed in a manner inconsistent with the applicable state-of-the-art, i.e. in conflict with the relevant technical standards;
- f) the goods have been used or installed by inexpertly trained staff;
- g) any adjustments or changes have been made to the goods without the seller's prior written consent;
- h) the goods have worn out as a result of being used in an inexpert manner or for purposes other than specified, or subjected to excessive loading;
- i) the goods have been stored inexpertly;
- j) the claimed damage is attributable to the buyer or a third party.

65. The seller shall not be liable for any defects, either revealed at the buyer's acceptance of the goods, or manifesting themselves during the warranty period, which occur as a result of the application of a non-standard technological procedure the buyer requested that the seller apply despite the fact that the seller cautioned the buyer, in this respect, that the special procedure may lead to problems involving the functioning of the goods or their required properties.

66. The buyer must take any reasonable measures to avert or minimise loss.

67. The buyer must communicate any warranty defects without undue delay. This obligation shall be deemed complied with by the buyer if the warranty defect is communicated to the seller at the latest within 5 days of being detected. If a warranty defect is communicated in a timely fashion, the seller shall proceed as follows: either replace the defective goods with the same or equivalent goods, or repair the defective goods or have them repaired by a third party at their own expense. Unless either method is possible, the seller must communicate the fact to the buyer and on receiving the defective goods, issue a credit note for the amount of the price paid for the defective goods. For defects that may be removed, it shall be the seller who chooses the method of redress, while for defects that may not be removed, the buyer chooses the method in which the complaint is processed.

68. If the buyer applies their rights under liability for defects or their rights associated with the complaint during the warranty period, the buyer must surrender the claimed goods to the seller at the initial place of performance, i.e. at the seller's headquarters, at their own expense, and then collect the replaced or repaired goods at the same place at the seller's request.

69. The time limit for the settlement of any rights applied under liability for defects or the warranty is 30 days from the date of collection of the defective goods by the seller.

70. As part of the settlement of any complaint, the seller may make the repair or removal of defects conditional upon the replacement of certain (defective) products or parts of products at the equipment, of which the goods are a part, in which case the seller shall pay any reasonable and necessary costs associated with such action. If the buyer does not consent to such a form of settlement, the seller shall not be held accountable for the respective defect of the goods.

X. Contractual fines

71. In the event the buyer is late with the payment of any debt under the purchase contract, the buyer undertakes to pay a contractual fine equivalent to 0.1% of the owed amount for each begun day of the delay, in addition to any statutory late payment interest. The contractual fine is payable on the day following the breach of the buyer's obligation covered by the contractual fine,

72. If the buyer is late with accepting the goods after the lapse of an additional period for the acceptance, the buyer undertakes to pay to the seller a contractual fine equivalent to 0.1% of the price of the goods (including VAT) for each begun day of the period during which the buyer is late collecting the goods.

The contractual fine is payable on the day following the lapse of an additional period for the collection.

XI. Final provisions, choice of law and jurisdiction of courts

73. If any arrangement between the contracting parties under the purchase contract or the present Conditions and Terms becomes void, null or unenforceable, the other provisions of the purchase contract and of the Conditions and Terms shall remain valid and effective and the contracting parties shall replace such void and unenforceable provisions with other provisions, corresponding to the purpose and to the provisions of the contract and the Conditions and Terms, which will be valid, effective and enforceable, without undue delay.

74. The contracting parties expressly exclude the right to assign the purchase contract to any other party without the prior express consent of the other contracting party.

75. The rights and obligations not regulated under the present Conditions and Terms or the purchase contract shall be governed by Act No. 89/2012 Coll., Civil Code.

76. In the event of any discrepancies, the regulation contained under the purchase contract shall prevail over that under the Conditions and Terms.

77. The contracting parties have agreed on the local jurisdiction of courts according to the registered office of the seller.

78. The contracting parties have agreed that the law of the Czech Republic is the governing law for all purchase contracts and the present Conditions and Terms.