

## Sec. 1 Scope of Application

(1) These contractual conditions ("GTC") apply to all contracts concluded between Leica Geosystems AG, including its affiliated companies ("LGS"), and its contractual partners ("Customer").

(2) Any diverging, contrary or supplementary general terms and conditions of the Customer shall only become a part of the contract if and to the extent that LGS has expressly accepted their application in writing.

(3) These GTC shall not apply if the Customer is a consumer.

## Sec. 2 Conclusion of Contract

(1) All offers of LGS are non-binding and subject to change. This shall also apply if the Customer has been provided with catalogues, technical documentation (e.g. drawings, plans, calculations, estimates, references to DIN standards), other descriptions regarding the contractual objects or documents – also in electronic form. An offer does not come into effect until LGS receives an order placed by the Customer.

(2) The Customer's order for the contractual objects shall be considered a binding offer of contract. LGS is entitled to accept the binding offer of contract expressly or by implication within three weeks after receipt, in particular by taking a fulfilment action.

## Sec. 3 Delivery, Delivery Deadline and Default in Delivery

(1) Insofar as a service by LGS can be divided into parts by its nature, LGS is entitled to render partial services and the Customer is obliged to accept these. The consideration for the partial service becomes due upon delivery of the partial service. Additional expenses incurred due to the partial delivery shall be disregarded if LGS agrees to bear these expenses.

(2) Unless otherwise agreed in writing, the delivery term "FCA" (Incoterms® 2020) applies to purchase contracts, even if the freight and other costs are borne by LGS.

(3) Delivery deadlines shall only be binding if expressly agreed in writing. The start of the binding delivery deadline is subject to the full clarification of all details of performance and the timely and proper fulfilment of the Customer's obligations.

(4) Where no binding delivery deadline is agreed, the Customer may request LGS to deliver the contractual objects six weeks after the expiry of the non-binding delivery date or deadline. Upon receipt of the request, LGS shall be deemed to be in default.

(5) Should LGS be unable to meet a binding delivery deadline for reasons beyond its control (non-availability of performance), LGS will immediately inform the Customer accordingly indicating a new delivery deadline. Should the performance also remain unavailable within the new delivery deadline, LGS is entitled to withdraw from the contract in whole or in part; LGS will immediately refund any consideration already rendered by the Customer. A non-availability of performance in this sense shall, in particular, mean delivery problems resulting from natural disasters, diseases, civil wars, embargoes or a delayed delivery by a supplier of LGS, if LGS has concluded a congruent covering transaction, if neither LGS nor its supplier is responsible for the delay or if LGS is not obliged to procure the respective objects in the individual case.

(6) The Customer's rights pursuant to Sec. 7 of these GTC and the rights of LGS, in particular in case of an exclusion of the duty to perform (e.g. due to impossibility or unreasonableness of the performance), shall remain unaffected.

## Sec. 4 Passing of Risk, Default in Acceptance

(1) Unless otherwise agreed in writing, the delivery term "FCA" (Incoterms® 2020) shall also apply with respect to the passing of risk, even if the freight and other costs are borne by LGS.

(2) If the Customer is in default with acceptance or fails to carry out a cooperative action or if the delivery is delayed for other reasons within the Customer's responsibility, LGS is entitled to claim compensation for any resulting damage including additional expenses (e.g. storage costs). In this context, LGS will charge a fixed compensation in the amount of 0.5% of the total net price (delivery value) for each complete calendar week after the delay in delivery, however, in total no more than 5% of the

delivery value of the contractual objects the delivery of which was delayed. The right to prove higher damage and the statutory rights (in particular reimbursement of additional expenses, appropriate compensation, termination) shall remain unaffected. The fixed compensation shall be credited against any further payment claims. The Customer may provide proof that LGS has suffered no damage at all or that the damage LGS suffered was significantly lower than the fixed amount indicated above.

(3) If LGS withdraws from the contract as a result of a non-acceptance of the contractual objects or late payment by the Customer, the amount of damage shall be 10% of the gross price. The amount of damage has to be increased or decreased if LGS provides proof of a higher damage or if the Customer provides proof of a lower damage or no damage at all.

## Sec. 5 Prices and Terms of Payment

(1) Unless agreed otherwise, the valid prices indicated in the price list of LGS at the point in time of the conclusion of the contract shall apply. All prices are quoted in euros, ex works excluding packaging, shipping and insurance costs plus statutory VAT and possible customs duties.

(2) Cash before delivery shall apply, i.e. the Customer is obliged to pay the entire purchase price in advance. LGS is only obliged to deliver after receipt of full payment.

(3) Invoices are payable within 14 days after receipt of the respective invoice. Payment must be made in euros. Payments by the Customer shall be deemed effected as soon as LGS can freely dispose of the amount. Partial payments are not permitted.

(4) The Customer shall automatically be in default upon expiry of the aforesaid payment period. A separate reminder shall not be required. **Default interest amounts to 15% per annum** on the invoice amount. The right to assert further damages for default shall remain unaffected.

(5) Payment by means of bills of exchange or cheques shall be subject to a separate agreement. Bills of exchange and cheques are only accepted on account of performance and without any costs or expenses for LGS.

(6) The Customer shall only have offsetting or retention rights insofar as its claim has been established with final legal effect or is undisputed. In case of defective deliveries, the Customer's counterclaims shall remain unaffected.

(7) If it becomes apparent after the conclusion of the contract (e.g. due to an application for the opening of insolvency proceedings), that the claim of LGS for payment of the purchase price is jeopardised by a lack of capacity to perform on the part of the Customer, LGS is entitled to refuse performance and/or to withdraw from the contract. In case of contracts regarding the manufacturing of non-fungible items (customised items), LGS is entitled to immediately declare a withdrawal without setting a prior deadline.

## Sec. 6 Exclusion of the Customer's Warranty Claims in Purchase Transactions

**(1) In purchase transactions, any warranty claims of the Customer shall be excluded.**

In principle, LGS does not accept any quality agreements, unless such have expressly been agreed in writing. Specifically, details provided to the Customer by LGS in catalogues, price lists and other information material shall under no circumstances be regarded as a quality agreement. LGS does not assume any liability for public statements of third parties which the Customer has not explicitly pointed out to LGS in writing, stating that these are relevant for the Customer.

(2) If a defect, which is subject to warranty rights, becomes apparent during delivery, inspection or at any point afterwards, LGS must be notified accordingly in writing without undue delay. If the Customer fails to duly inspect the delivery and/or to duly report defects, the liability of LGS for the defect which was not duly reported in time shall be excluded. In any case, LGS must be notified in writing of any obvious defects within two business days from receipt of delivery and of any defects which could not be detected during inspection within the same deadline from detection.

(3) Also, in case of defects, the Customer shall only have claims for damages and/or reimbursement of futile expenses subject to the provisions of these GTC and such claims shall be excluded in all other respects.

#### Sec. 7 Other Liability of LGS

(1) **LGS can be held liable for damages – irrespective of their legal grounds (whether contractual or non-contractual) – exclusively in cases of intent and gross negligence.**

(2) **For damages caused by auxiliary persons, the liability of LGS shall be entirely excluded.** This shall not apply to claims of the Customer under product liability law.

#### Sec. 8 Product Liability

If the Customer sells the delivery items unchanged or after having processed, reshaped, combined, blended or mixed them with other contractual objects, the Customer shall indemnify LGS in the internal relationship from any product liability claims of third parties insofar as the Customer is responsible for the defect causing the liability.

#### Sec. 9 Statute of Limitations for Sales Transactions

(1) The regular limitation period for any warranty claims of the Customer shall be one year from delivery.

(2) The above provision does not apply in case of intentional or grossly negligent breach of a contractual obligation of LGS or a significant breach of an essential contractual obligation by LGS as well as in case of claims under product liability law or a normal use of the delivered contractual objects for a building and the causation of a building defect.

#### Sec. 10 Industrial Property Rights and Software Licence

(1) LGS reserves any and all property, patent, usage, design, trade mark, personal and other protective rights as well as copyrights in any illustrations, designs, forms, plans, drawings, calculations, application instructions, product specifications and customer lists provided by LGS ("Industrial Property Rights"). The provision of the purchase object does not entail a transfer of Industrial Property Rights to the Customer.

(2) The Customer is not entitled to use intellectual property of LGS for any purposes other than the agreed contractual purpose. Reproductions, amendments, distribution, marketing, or dissemination to third parties are not permitted without the consent of LGS.

(3) If the Customer violates Sec. 10 (2), it has to pay to LGS a reasonable contractual penalty to be determined by LGS at its equitable discretion, but not more than EUR 10,000.00. The Customer may provide proof that no damage was suffered, or that a significantly lower damage was incurred. Any further claims of LGS shall remain unaffected hereby; however, the contractual penalty must be credited against the claim for damages.

(4) If the Customer instructs LGS by way of specific instructions, information, documents, drafts or drawings how LGS is to produce the products for delivery, the Customer shall warrant that LGS does not infringe any third-party rights such as patents, utility models and other industrial property rights and copyrights.

(5) The Customer indemnifies LGS upon first demand against any and all third-party claims due to a violation of Sec. 10 (4). The Customer's obligation to indemnify includes all costs and expenses incurred by LGS based on or in connection with the claim of the respective third party, including the necessary costs for legal advice and representation.

(6) **If LGS grants the Customer a software licence pursuant to the contract, the provisions of the software licence agreement of LGS in the version which is applicable upon conclusion of the contract, and which can be found under [www.leica-geosystems.com/de-de/about-us/compliance-standards/legal-documents](http://www.leica-geosystems.com/de-de/about-us/compliance-standards/legal-documents), shall apply.** Upon request, LGS will provide the Customer with the provisions of the software licence agreement in written form.

#### Sec. 11 Confidentiality

(1) The Customer undertakes to maintain secrecy, during the cooperation and beyond, with respect to any and all illustrations, plans, drawings, calculations, application instructions, product specifications, customer lists as well as documents and tools marked as confidential by LGS ("Confidential Information") it is provided with and to use the Confidential Information exclusively for the purpose of fulfilling the contract. Any marking as

confidential does not have to take place explicitly, it may also result from the circumstances.

(2) The secrecy obligation does not apply if the information:

- is known to the public or published by LGS at the time of disclosure;
- is part of general specialist knowledge or the state of the art;
- has already been provided to the Customer by LGS on a non-confidential basis;
- becomes generally known without fault of the Customer;
- has to be disclosed pursuant to mandatory statutory provisions or official orders.

(3) The Customer is entitled to disclose the Confidential Information to its employees or third parties if this is imperative for the fulfilment of the contract. In this context, the Customer has to inform its employees or any third parties of the secrecy obligation pursuant to these GTC.

(4) Upon written request of LGS, the Customer has to return the complete Confidential Information to LGS or to destroy and permanently delete it and to provide proof to LGS of such destruction and/or deletion.

#### Sec. 12 Compliance

(1) The Customer undertakes to comply with any and all applicable laws, statutes, and other regulations, including those against corruption and/or relating to the fight against corruption, and not to take any actions which would constitute a criminal offence.

(2) The Customer undertakes to provide proof to LGS of compliance with the above provisions at any time after the first written request in a reasonable manner.

(3) In case of a violation of Sec. 12 (1) and (2) on the part of the Customer, the Customer shall fully indemnify LGS against any third-party claims. In addition, LGS will be entitled to withdraw from the contract in accordance with the statutory provisions.

#### Sec. 13 Export Control

(1) Deliveries under this contract are subject to the proviso that their fulfilment is not impaired by any national or international export control regulations, e.g. embargoes or other sanctions.

(2) The Customer represents and guarantees that it is not subject to any trade sanctions of the USA, the EU and/or the UN. Furthermore, the Customer guarantees that it does not maintain any direct or indirect business or other relationships with terrorists, terrorist groups or other criminal, anti-constitutional organisations or sanctioned business partners. In particular, the Customer ensures by means of appropriate organisational measures, in particular by using appropriate systems, the implementation of applicable embargoes, the European regulations against terrorism and crime applicable in the context of the delivery relationship as well as the respective US or other applicable provisions within the framework of its business operation.

(3) The Customer undertakes to provide any and all information and documents required for the export or shipment. Any delays due to export controls or approval procedures suspend any deadlines and delivery times. If required approvals are not granted or if the delivery and service are not approvable, the contract shall be deemed not concluded with respect to the parts concerned.

#### Sec. 14 Data Protection

LGS will treat personal data which becomes or became known in connection with the performance of the contract in accordance with the applicable data protection regulations. Details can be found in the separate privacy policy of LGS in its respectively valid version which is available under [www.leica-geosystems.com/de-de/global/privacy-policy](http://www.leica-geosystems.com/de-de/global/privacy-policy).

#### Sec. 15 Specific Provisions for Transfers for Use

If the contract concerns a lease or gratuitous loan of LGS products ("Transfer for Use"), the following provisions shall apply in addition:

(1) The Customer undertakes to apply special care when handling the contractual objects provided to it. LGS must immediately be notified in writing of any damage or loss of contractual objects.

(2) Unless otherwise agreed, the Customer is obliged to take out an insurance for the contractual objects for the duration of the Transfer for Use. The insurance sum must correspond to the fair value of the contractual objects. The Customer undertakes to provide reasonable proof to LGS of a respective insurance at any time upon first demand.

(3) The Customer is expressly prohibited from providing the contractual objects to any third parties.

(4) Subject to any other agreement, LGS may request the Customer at any time without stating any reasons to return the contractual object to LGS at the Customer's expense in case of a Transfer for Use on a gratuitous loan basis.

(5) In case of a Transfer for Use on a gratuitous loan basis, the Customer shall also be liable for any accidental loss of or damage to the contractual objects.

#### **Sec. 16 Specific Provisions for Training Services**

If the contract concerns a participation in training and educational events ("Training Services"), the following provisions shall apply in addition:

(1) Cancellations and rebookings of booked Training Services by the Customer are free of charge if they are made in writing and are received by LGS at the latest 14 days before the start of the respective event. In case of a cancellation or rebooking of an event, LGS will charge a cancellation fee for additional administrative expenses pursuant to the following grading:

- Cancellation/rebooking 13-5 days before the start of the training: 20% of the remuneration
- Cancellation/rebooking 4-1 days before the start of the training: 50% of the remuneration
- Non-appearance without prior cancellation less than 24 hours before the start of the training: 100% of the remuneration

If the Customer provides a substitute participant for the booked training, the cancellation fee will not be charged.

(2) LGS is entitled to cancel Training Services or to interrupt running Training Services at short notice (i.e. less than 24 hours before the start of the training) due to reasons for which LGS is not responsible, in particular in case of illness/incapacity of a trainer or an insufficient number of participants. An insufficient number of participants generally exists if the respective event has been booked by less than 50% of the number of participants calculated by LGS. In such case, notification will be made to the address stated by the Customer upon registration. Remuneration already paid for the respective event will be reimbursed in such cases. Any further claims of the Customer, in particular claims for damages, shall be excluded in such cases.

#### **Sec. 17 Country Annex**

(1) If applicable, the country annex to the GTC of LGS in its respectively valid version for the respective country shall become an integral part of the contract.

(2) In case of conflicts, the provisions of the country annex to the GTC of LGS shall prevail over the provisions of these GTC.

#### **Sec. 18 Choice of Law and Place of Jurisdiction**

(1) The laws of Switzerland shall exclusively apply to these GTC and the contractual relationship between LGS and the Customer, without giving effect to the UN Convention on the International Sale of Goods (CISG).

(2) The exclusive – and also international – place of jurisdiction for any and all disputes resulting directly or indirectly from this contractual relationship shall be the seat of LGS. In addition, LGS is entitled to bring action against the Customer also at the Customer's place of business.

#### **Sec. 19 Final Provisions**

(1) Any amendments or additions must be made in writing. This shall also apply to an amendment of this written form requirement.

(2) These GTC apply in the version applicable at the time the contract was concluded.

(3) The Customer is not entitled to assign or otherwise transfer its rights and obligations under these GTC to third parties without the prior written consent of LGS.

(4) Should individual provisions of these GTC be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions of these GTC. Each contractual party is entitled to request the agreement of a valid and enforceable provision which comes as close as possible to the purpose of the ineffective or unenforceable provision.

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