

## **GENERAL CONDITIONS FOR THE SALE OF LIVAR, D. D. PRODUCTS, CODE 0902/2014 – Rev.1**

### **1. GENERAL DEFINITIONS**

The given expressions in the appropriate case and number have the following meanings:

- 1.1. the general conditions: general conditions;
- 1.2. the point: the point of the general terms and conditions;
- 1.3. LIVAR: LIVAR, proizvodnja in obdelava ulitkov, d. d., Ljubljanska cesta 43, 1295 Ivančna Gorica;
- 1.4. the CUSTOMER: the person who sends LIVAR an order for products or services and/or invites LIVAR to bid; a person to whom LIVAR sends an offer and a person who enters into an agreement with LIVAR that binds LIVAR to manufacture or deliver goods or perform services or a person who orders the supply of products and services from LIVAR;
- 1.5. products: products supplied by LIVAR;
- 1.6. services: services performed by LIVAR;
- 1.7. the product development agreement: a written agreement by which LIVAR and the CUSTOMER agree on the product and tools LIVAR shall supply and their characteristics, which are determined by the technical documentation;
- 1.8. an order: a written agreement under which the CUSTOMER orders LIVAR to supply products or to implement services;
- 1.9. technical documentation: the technical documentation in which the CUSTOMER defines the product that is to be developed and manufactured by LIVAR, and in which the subject of the agreement is determined; the technical documentation shall contain all information in electronic or written form that is necessary for LIVAR to develop and manufacture the product without additional instructions; the technical documentation shall include 2D and 3D files of the raw and/or machined castings, specifications, technical acceptance conditions and any additional requirements;
- 1.10. the tools: the term covers all devices that are used to manufacture the product, casting tools (casting moulds), a clamping devices for machining and special control devices (stencils, calibers, etc.);
- 1.11. the stage of development: is within the time frame from the date of the sample order to the null series confirmation by the CUSTOMER;
- 1.12. the sample: a casting made with new or modified tool;
- 1.13. the null series: is the first batch of castings, which is quantitatively limited to casting samples manufactured by new or modified tools that have been accepted by the CUSTOMER.

## **2. SCOPE AND DURATION OF THE GENERAL TERMS AND CONDITIONS**

- 2.1. The general terms and conditions supplement specific agreement arrangements and are subject to legal relationships between LIVAR and the CUSTOMER.
- 2.2. The parties may only further regulate their mutual relations with their written consent.
- 2.3. General terms and conditions are posted on LIVAR's website [www.livar.si](http://www.livar.si).
- 2.4. Each agreement or offer is subject to the general terms in the text that was published on the website at the time of the conclusion of this agreement or at the time the offer was approved by the CUSTOMER.
- 2.5. The language of communication between LIVAR and the CUSTOMER shall be Slovene or English.

## **3. AGREEMENT OR OFFER**

- 3.1. The CUSTOMER'S demand for the product or invitation for LIVAR's bid must be accompanied by related technical documentation in which characteristics and dimensions of the product are defined so that LIVAR can develop it without additional instructions.
- 3.2. If the demand or the invitation to bid and/or technical documentation is not sufficiently defined, LIVAR will invite the CUSTOMER to rectify any omissions to the technical documentation and other requirements, and may also issue an informative but non-binding offer.
- 3.3. If the product in a demand or invitation to bid is appropriately defined in technical documentation, specifications and other requirements and if LIVAR can manufacture it without additional instructions and coordination of characteristics, LIVAR sends the CUSTOMER a binding offer. If the CUSTOMER changes the specifications and/or technical documentation or other requirements in any way after LIVAR has already sent an offer, LIVAR is entitled to change the price, dates and other terms of the offer, which were affected by the change made in the specification, the technical documentation or other requests.
- 3.4. If after the conclusion of the agreement or the confirmation of the offer, the CUSTOMER requests product modification and/or the modification of the requirements the product must meet, and LIVAR accepts it, LIVAR is entitled to a price change and/or to changes to other terms and conditions that result from the CUSTOMER'S requests. The CUSTOMER is obliged to reimburse LIVAR any additional costs incurred by carrying out the additional requirements.
- 3.5. LIVAR only begins the delivery of products on the basis of the CUSTOMER'S order after the latter has confirmed in writing that the presented samples of the product manufactured by LIVAR on the basis of an agreement or offer, meet the technical documentation, specifications and other requirements set out in that agreement or offer. Upon the confirmation of samples and the null series, the CUSTOMER shall deliver:
  - Report on dimensional control.
  - Report on visual inspection.
  - Report of material control.
  - Report after machining.

The reports must be prepared for all submitted samples or the null series. The formulation of reports is optional.



If the samples are rejected or if an error occurs in a number of samples, the error shall be precisely defined, described and accompanied by appropriate visual material.

LIVAR shall start the delivery of the null series based on the confirmation and the sampling results after the CUSTOMER'S written approval of the samples. As long as LIVAR does not receive the result of the processing/use of the complete null series, a regular series shall not be supplied. A regular supply of products shall be made after the confirmation without restriction for null series products. Based on the results of the null series, LIVAR shall decide on re-sampling or a regular series.

- 3.6. Under the agreement or confirmed offer and in accordance with point 2, changes shall be made to a product that is already produced or supplied by LIVAR on the basis of the already concluded agreement on product development.
- 3.7. If the CUSTOMER cancels the order in the development phase, he shall be liable to reimburse costs incurred until the date of cancellation.

#### **4. PRODUCTS**

- 4.1. The CUSTOMER is fully responsible for the technical documentation and construction solutions specifying the product for LIVAR and for the required casting material.
- 4.2. Any changes in the construction of the casting (casting solutions) proposed by LIVAR may only be executed if they are confirmed in writing by the CUSTOMER prior to manufacture.

#### **5. ORDER**

- 5.1. The order must be submitted in writing. The CUSTOMER shall send the order to an e-mail address or fax, by registered post or publish it on the customer's web site.
  - 5.1.1. All orders can be submitted to the e-mail address that was agreed between LIVAR and the CUSTOMER.
- 5.2. Orders by mail shall be addressed to »LIVAR, proizvodnja in obdelava ulitkov, d. d., Ljubljanska cesta 43, 1295 Ivančna Gorica«.
- 5.3. In addition to firm, office, business address, tax identification number and CUSTOMER'S bank account, the order must also include:
  - 5.3.1. The code of the ordered piece used by the CUSTOMER;
  - 5.3.2. The code of the ordered piece used by LIVAR;
  - 5.3.3. The quantity of ordered products;
  - 5.3.4. Delivery address;
  - 5.3.6. Any additional requirements on the method of packing, protection and coating, transportation, etc.
- 5.4. LIVAR is bounded only by the delivery date that was confirmed by a written confirmation of the order.



## **6. CONFIRMATION AND CANCELLATION OF THE ORDER**

- 6.1. When LIVAR accepts an order, it shall confirm in writing no later than five working days from when the order was received. If LIVAR receives an order after working hours (after 15:00 p.m.) it shall be considered that it was received on the next business day. If the CUSTOMER has not received an order confirmation by 15:00 p.m. on the fifth working day, he shall be obliged to verify whether LIVAR has received the order at all.
- 6.2. LIVAR is not obliged to accept the change or cancellation of an order (cancellation), if it arrives less than 30 days before the confirmed delivery date for raw castings or 45 days for machined castings.
- 6.3. It is considered that LIVAR has fulfilled the order even in cases when the quantity of delivered product differs from the confirmed quantity by a maximum +/- 5 percent. Any difference shall be taken into account in the next delivery and shall be calculated in the next order.

## **7. PAYMENTS**

- 7.1. The CUSTOMER is obliged to pay for the products within the agreed period from the date of the invoice. The deadline for a complaint about invoice correctness is 8 days from the receipt of the invoice.
- 7.2. When paying, the CUSTOMER must specify what invoice he is paying and, if he is paying partially, he shall specify what he is paying for. If the CUSTOMER does not indicate the invoice/s that he is paying, the amount paid shall cover the past due invoices in the order of maturity.
- 7.3. If the CUSTOMER has a reasonable objection to part of the invoice, he shall be obliged to pay the undisputed part. The CUSTOMER is obliged to pay the invoices for deliveries after the delivery that is subject to dispute discrepancies without preconditions on the preliminary settlement of the alleged non-conforming delivery.
- 7.4. The payment shall be made by bank transfer. The payment has been made when the total amount charged is in LIVAR's bank account.
- 7.5. All banking and other costs associated with the payment and the payment of any duty on payment shall be covered by the CUSTOMER so that LIVAR receives in its account the amount indicated on the invoice without deductions or expenses.
- 7.6. Once per calendar year, the CUSTOMER and LIVAR shall adjust their receivables and/or transactions on the open claim and liability positions (IOP form) if the CUSTOMER is from the Republic of Slovenia, otherwise they shall adjust them with a particular record.
- 7.7. LIVAR has the right to withdraw its accounts receivables without the special consent of the CUSTOMER.

## **8. PAYMENT DELAYS AND INSURANCE OF PAYMENTS**

- 8.1. In the event of late payment, the CUSTOMER is obliged to pay default interest on the amount due at the rate of 1 percent (one percent) for each month of delay. Interests shall be calculated linearly.



- 8.2. If the CUSTOMER is in arrears in the payment, LIVAR shall also be entitled, in addition to the right to default interest, to carry out one or more of the following actions of its choosing until the receipt of full payment (the CUSTOMER must be informed about it):
- 8.2.1. To withhold the delivery of products intended for the CUSTOMER.
  - 8.2.2. To withhold the confirmation of the order and not enter it into the system.
  - 8.2.3. To order the immediate payment of the overdue amount and of all not yet overdue payments.
  - 8.2.4. To withhold the delivery of tools they are owned by the CUSTOMER.
  - 8.2.5. To fulfil future deliveries on the basis of pre-payment only.
  - 8.2.6. To require payment insurance for all future deliveries.
  - 8.2.7. To waive all or some of the confirmed orders and/or other agreements concluded with the CUSTOMER who is in arrears and to order a reimbursement for losses.
- 8.3. LIVAR is not responsible for damage caused to the CUSTOMER due to the enforcement of the measures referred to in point 8.2.
- 8.4. The CUSTOMER undertakes to deliver to LIVAR the information required by the insurance company for the insurance of LIVAR'S accounts receivables towards the CUSTOMER.

## **9. QUALITY**

- 9.1. The quality of products is determined by the technical documentation and specifications for the product depending on the type of manufacturing and the product. The parties may agree in writing on any mutually acceptable variation or alteration of the product quality from the technical documentation.

## **10. THE ACCEPTANCE OF PRODUCTS**

- 10.1. The CUSTOMER can make a complaint on the accuracy of the quantities delivered within five (5) working days from the delivery of the products. Subsequent complaints about the quantities shall not be considered or recognized. The same procedure applies to complaints concerning packaging and corrosion or obvious errors on the products.
- 10.2. The CUSTOMER is obliged to inform LIVAR about physical and hidden defects that are visible on the product within a maximum of 6 months from the date of the product delivery. After this time period such complaints shall not be recognized. The notice on a defect must contain the information listed in point 10.4. All notices on the non-compliance of products shall be addressed to the e-mail address [quality@livar.si](mailto:quality@livar.si) and the CUSTOMER's sales contact person in LIVAR. Notifications and reports that are not addressed to these two e-mail addresses shall not be considered and LIVAR shall not bear any responsibility for any charges or other consequences.



10.3. During the assembly and before the delivery of products or their parts, the CUSTOMER is obliged to examine their castings in order to detect possible defects, in particular:

- Surface damages;
- Non-compliance on the surface - defect of form;
- Too much or not enough grinding: visible roughness;
- Surface shrinkage;
- Porosity on the machined surfaces.

In the case of the detection of such defect at the CUSTOMER's premises, the CUSTOMER shall be subject to all the provisions of these general conditions on treating and taking into account non-conforming products.

In cases when the products or parts are the subject of complaints regarding such defects, LIVAR shall not bear any responsibility between LIVAR's CUSTOMER and the CUSTOMER'S CUSTOMER. LIVAR shall not be responsible for costs and damages incurred to the CUSTOMER due to his abandonment of control procedures between individual stages of the production or due to the lack of performed test records depending on the function of the product, such as leak, flow tests records etc.

10.4. The CUSTOMER is obliged to indicate the following information in the complaint report:

- The number of LIVAR's delivery note or casting date for products that are subject to the reclamation of the report;
- The number of all machined/used products from which the quantity subject to the complaint results;
- Photos of the defect and defect locations on the product.

If the complaint report does not contain all of this information, LIVAR shall not consider it and shall treat it as irrelevant.

10.5. The CUSTOMER is obliged to use the products according to the FIFO principle, otherwise LIVAR shall not accept any complaints on previously delivered products if the CUSTOMER has already made a complaint about products that were delivered subsequently.

10.6. The CUSTOMER is obliged take-over the ordered and finished products (in the case of parity EXW) or to allow delivery (in the case of parity CPT) no later than 7 days after the agreed and confirmed delivery period. Otherwise, LIVAR shall charge storage costs in the amount that is published on LIVAR's website at the beginning of the year and applies for the current year.

## **11. WARRANTY AGAINST DEFECTS**

11.1. LIVAR is responsible for the product's conformity with the technical documentation and technical specifications of the product. LIVAR is not responsible for inappropriate and improper handling, improper and incorrect installation or exploitation of products, improper repairs or normal wear after the delivery of the goods to the CUSTOMER.



11.2. If products have defects and their quantity does not exceed 2 percent (two percent), LIVAR shall replace them or shall issue a credit note. In this case, any additional costs, including the cost of machining, shall not be refunded. In cases when the rejection rate exceeds the 2 percent, the CUSTOMER is entitled to issue an invoice for the quantity exceeding the 2 percent of non-compliant products. Substitute quantities shall be delivered after the return of the non-compliant products to LIVAR; the same applies for the issue of credit notes provided it has been agreed upon.

11.3. When calculating the costs of machining/repair, the CUSTOMER shall indicate on the invoice the exact cost for each individual product code and to which complaint report these costs relate. Before issuing an invoice, the CUSTOMER may send to LIVAR a spreadsheet as a preview with the costs indicated according to the requirements of the preceding sentence.

Before sending the invoice or spreadsheet with additional costs to LIVAR, the CUSTOMER is obliged to send it to the e-mail address [quality@livar.si](mailto:quality@livar.si) in order to be confirmed. Only after confirmation by LIVAR or after an agreement is reached on changes, can the CUSTOMER forward the invoice to LIVAR using the official mail service at the LIVAR, d.d. company or, according to the agreement, by e-mail to [quality@livar.si](mailto:quality@livar.si).

11.4. If the defects are of such nature that the products can be repaired before use, the CUSTOMER and LIVAR shall agree on the repair or replacement of products. If agreed, the repair can be carried out by LIVAR employees or by the CUSTOMER. In this case, the repair costs shall be agreed upon previously. If the CUSTOMER carries out the repair of products, or if he has them repaired by a third party without LIVAR's written consent, he shall be obliged to bear all the costs of correcting the errors.

11.5. If the rejection of castings exceeds 2 percent after a third of the castings was machined/used, the CUSTOMER is obliged to immediately inform LIVAR and stop the further machining/use of castings. LIVAR shall decide within 48 hours whether to replace the castings with a replacement quantity or issue a permit for the further machining/use of castings.

11.6. Due to product defects, the CUSTOMER has the rights referred to in point 11.2 to 11.4. LIVAR is not responsible in particular for:

11.6.1. Damage to things, people, property and others;

11.6.2. Damage caused by a defective product if the CUSTOMER has abandoned his prescribed control procedures for products or assembly in which the product is built, including testing the product in assembly functionality;

11.6.3. Damage caused by the product if the defect occurred due to technical documentation, specifications, instructions or the CUSTOMER's requirements;

11.6.4. Damage caused by the product if it has been improperly installed, overloaded or unintentionally used or is not in use based on its function, if there is no record of the tightness and the permeability tests.



## **12. DEFECTIVE PRODUCT TAKE-OVER**

12.1. Every month, LIVAR shall take over from the CUSTOMER all products from this point and products that the CUSTOMER reasonably rejects due to a clerical error. LIVAR shall issue the CUSTOMER a credit note in the value of the products according to the price list on the day of departure from LIVAR. Rejected products intended for the take-over must be separated and must not be in the same packaging units with products of grey and nodular raw and machined castings.

Otherwise, LIVAR is entitled to issue an invoice for sorting costs.

## **13. DAMAGE LIABILITY**

13.1. LIVAR is only liable for damage due to defects on products and/or other damage if the damage was caused by gross negligence or intentionally. LIVAR shall not be liable for lost profit, downtime in production, recalls and loss of reputation and other indirect damages. Compensation is limited to the value of the supplied defective products.

13.2. The CUSTOMER does not have the right to the reimbursement of administrative expenses incurred in connection with the exercising the rights due to defective products.

## **14. TOOLS**

14.1. The CUSTOMER is obliged to finance the tools and becomes the owner of the tools after he made full payment of the invoice for the tool. The invoice for the tool shall be issued by LIVAR after the CUSTOMER confirmed the sample in writing. If the CUSTOMER does not confirm the sample without a good reason within 15 days from the date of receipt of the sample, LIVAR has the right to invoice tools after the expiry of that period. The CUSTOMER is obliged to pay the invoice for the tool within the specified period.

14.2. If the CUSTOMER delivers casting tools (patterns, core boxes) he shall be solely responsible for the dimensional adequacy of the tools and products. Possible alignment shall be regulated on the basis of an additional offer.

14.3. Tools designed by LIVAR have a lifetime (durability) as defined in the agreement for tool manufacture. In due time, before the end of the tool lifetime, LIVAR shall send a written warning to the CUSTOMER that the tool is worn out and that it is necessary to restore or replace it and shall submit an offer. If the CUSTOMER does not order the restoration of tools, new tools or fails to deliver new tools, LIVAR shall have the right to reject any further order of such product.

14.4. The CUSTOMER is required to collect any tools that LIVAR did not use because the CUSTOMER had not submitted, by 1<sup>st</sup>. December of the calendar year, any orders for products for which they were





intended (unserviceable tools) within three months from LIVAR's request. If there is no response from the CUSTOMER, the tools can be destroyed three months after LIVAR's request was made.

## **15. PRICES**

- 15.1. The applicable price under the agreement or offer is the price per kilogram of the product. After the CUSTOMER has confirmed the product, the price for a piece shall be determined from the average weight of the null series of samples (10 pieces) and the kilo price under the agreement or offer.
- 15.2. The product prices shall contain costs merely in the agreement or offer on defined operations.
- 15.3. The prices shall be considered for the minimum quantity of products defined in the agreement or offer.
- 15.4. If the parties agree on a smaller amount, the CUSTOMER is obliged to pay LIVAR any additional costs incurred to LIVAR in this respect.
- 15.5. The product prices depend on changes in the prices of the basic material and energy. LIVAR changes prices periodically according to the agreement with the CUSTOMER and based on the presented formula.
- 15.6. The price for items of an individual delivery shall be determined in accordance with points 15.1 to 15.5 on the basis of LIVAR'S price list valid on the day of dispatch.

## **16. INTELLECTUAL PROPERTY AND PROFESSIONAL SECRECY**

- 16.1. The technical documentation, specifications and other product information provided by LIVAR to the CUSTOMER shall remain the intellectual property of the CUSTOMER, or the person who ordered the CUSTOMER to forward it to LIVAR. LIVAR shall use the technical documentation, specifications and information only for the purpose of the production and delivery of tools and products to the CUSTOMER.
- 16.2. The CUSTOMER undertakes that the technical documentation disclosed to LIVAR and its use for the manufacture and delivery of tools and products in accordance with the agreement shall not prejudice any right of the third party.
- 16.3. If LIVAR draws up the technical documentation and specifications for tools and products, their changes or adjustments, LIVAR shall obtain all intellectual property rights in connection with this documentation and specifications. If the parties agree in writing that the CUSTOMER shall obtain the intellectual property rights in connection with the technical documentation and specifications drawn up by LIVAR, the CUSTOMER shall obtain these rights on the day when he fully pays the agreed price.
- 16.4. Both parties undertake to regard information provided by the other party and information that is not legally available to the public as a professional secret:
  - Information that is marked by the other party as a professional secret,
  - The technical documentation and specifications of the other party,
  - Commercial conditions, prices, calculations,
  - Complaints,



- Information that could obviously cause damage to the other party if disclosed to an unauthorized person.
- 16.5. The parties undertake to protect the contents of the negotiations and the information transmitted by the other party during the negotiations and the content of the agreements concluded on the basis of these general terms and conditions as a professional secret.
- 16.6. Both parties are obliged to protect the professional secrecy of the other party for at least 3 years after the termination of the agreement or the termination of cooperation (from the last order).

## **17. FORCE MAJEURE**

- 17.1. In the case of an event that is beyond the reasonable control of the party and cannot be prevented or avoided by the party, such as earthquakes, storms and other natural disasters, war, state measures, riots, fire, strikes, shortages of materials, etc. and is the reason why the party cannot meet or is unable to meet its obligations due to such event, the party is obliged, without delay as soon as possible, to notify the other party in writing.
- 17.2. If possible the parties shall in this case agree on adjustments to the contractual obligations. If the performance of the agreement due to such an event cannot be realised within 90 days from the date of the occurrence, the other party may withdraw from the agreement.
- 17.3. The party to which the force majeure prevented the fulfilment of obligations shall not be responsible for any damage caused to the other party.

## **18. APPLICABLE LAW AND COMPETENCE OF THE COURT**

- 18.1. Any relationship between the parties shall be governed by the law of the Republic of Slovenia. The application of the United Nations Convention on Contracts for the International Sale of Goods (Vienna Convention) shall be excluded.
- 18.2. Possible disputes between the parties that cannot be solved amicably shall be decided by the competent court in Ljubljana.

Ivančna Gorica, 1.3.2014

