

## GENERAL TERMS AND CONDITIONS OF SALE OF LIVAR, D. D. PRODUCTS

### Version 2019 – Rev.1

#### 1. DEFINITIONS OF TERMS

The terms listed below, in the corresponding case and number, have the following meanings:

- 1.1. general terms and conditions: these general terms and conditions;
- 1.2. point: a point from general terms and conditions;
- 1.3. LIVAR: LIVAR, proizvodnja in obdelava ulitkov, d. d., Ljubljanska cesta 43, 1295 Ivančna Gorica;
- 1.4. CUSTOMER: the person who sends LIVAR an order of products or services and/or requests an offer from LIVAR; the person to whom LIVAR sends an offer and the person who enters into an agreement with LIVAR that binds LIVAR to manufacture or supply products 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. contract: a written contract by which LIVAR and the CUSTOMER enter into agreement laying down the type of products, tools and services to be supplied by LIVAR and their characteristics, which are determined by the technical documentation;
- 1.7. order: a written order by which the CUSTOMER orders the supply of products or provision of services from LIVAR;
- 1.8. technical documentation: the technical documentation in which the CUSTOMER defines the product that is to be developed and manufactured by LIVAR and also determines subject of the order; the technical documentation shall contain all information in electronic or written format, which 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/machined castings, specifications, technical conditions of acceptance and any additional requirements;
- 1.9. tools: the term covers all devices that are used to manufacture the product, casting tools (patterns and cores), clamping devices for machining and special control devices (stencils, calibers, etc.);
- 1.10. development phase: is defined from the date of the sample order to the null series confirmation by the CUSTOMER;
- 1.11. sample: a casting made with a new or modified tool or an additional service product;
- 1.12. 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.
- 1.13. 1. regular series: the series following the confirmation of the null series to fulfill order and make a new setup;

## 2. SUBJECT AND VALIDITY THE GENERAL TERMS AND CONDITIONS

- 2.1. General terms and conditions supplement specific contract agreements and are considered legal relationships established between LIVAR and the CUSTOMER.
- 2.2. Legal relationships between the parties can only be changed by their written consent.
- 2.3. General terms and conditions are published on LIVAR's website [www.livar.si](http://www.livar.si).
- 2.4. Each contract or offer is subject to general terms and conditions published on the website at the time of the conclusion of the contract or at the time the offer was confirmed by the CUSTOMER.
- 2.5. The language of communication between LIVAR and the CUSTOMER shall be Slovene or English, by agreement between the parties.

## 3. CONTRACT OR OFFER

- 3.1. The CUSTOMER'S request for the product or request for an offer by LIVAR must be accompanied by technical documentation which specifies the product characteristics and measurements, so that it can be developed by LIVAR without additional instructions. The CUSTOMER shall also submit any internal technical specifications or standards used and related to the manufacture of the product according to plan or product handling, including delivery conditions and product scope.
- 3.2. If the request or the invitation to offer and/or technical documentation are not sufficiently defined, LIVAR shall request from the CUSTOMER to complete the technical documentation and other requirements, and may also issue an informative offer which is non-binding.
- 3.3. If the product subject to request or invitation to offer is appropriately defined in the technical documentation, specifications and other required documents so that LIVAR can manufacture it without any additional instructions and coordination of characteristics, LIVAR shall send a binding offer to the CUSTOMER. 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 of specifications, technical documentation or other required documents.
- 3.4. If the CUSTOMER requests product modification and/or the modification of the product requirements after the conclusion of contract or confirmation of the offer and LIVAR accepts the modification, LIVAR is entitled to change the price and/or other conditions resulting from the CUSTOMER'S request. The CUSTOMER is required to reimburse LIVAR any additional costs incurred by carrying out the additional requirements made by the CUSTOMER.
- 3.5. LIVAR shall deliver the products based on the CUSTOMER'S order only after the latter has confirmed in writing that the presented samples of the product manufactured by LIVAR on the basis of a contract or an offer, conform to the technical documentation, specifications and other requirements set out in that contract 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 arbitrary.



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

LIVAR shall proceed with the delivery of the null series based on the confirmation and the sampling results after the CUSTOMER'S written approval of the samples. Until the result of the machining/use of the entire null series is received by LIVAR, the regular series shall not be supplied. Regular supplies of products shall be made after the confirmation of null series products without restrictions. Based on the results of the null series, LIVAR shall decide between re-sampling and regular series.

- 3.6. In accordance with point 2 of the General terms and conditions also regulates the introduction of modifications of the product, which is already manufactured by LIVAR based on the previously concluded contract.
- 3.7. If the CUSTOMER cancels the order in development phase, he shall be liable to compensate any costs and damages 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 selection of materials for the product.
- 4.2. Any changes in the manufacture of the product (casting solutions) proposed by LIVAR may only be performed if they are confirmed in writing by the CUSTOMER prior to manufacture. If the CUSTOMER does not confirm the proposed changes, LIVAR has a right to withdraw from the order by issuing a statement on withdrawal from the order.

#### **5. ORDERS**

- 5.1. The order must be submitted in writing. The CUSTOMER shall send the order via e-mail, fax, registered post or publish it on the customer's web site.
  - 5.1.1. All orders can be submitted to the e-mail address 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, seat, business address, tax identification number and bank account number of the CUSTOMER, 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 (if relevant) used by LIVAR;
  - 5.3.3. The quantity of ordered products;
  - 5.3.4. Delivery address;
  - 5.3.6. Any additional requirements for the packaging methods, colouring, transportation, etc.
- 5.4. LIVAR is only bound by the supply period confirmed by the written confirmation of the order.



## 6. CONFIRMATION AND CANCELLATION OF THE ORDER

- 6.1. Upon the receipt of the order, LIVAR shall confirm the order no later than after seven working days from the date of the receipt of the order. If LIVAR receives an order after working hours (after 15:00 p.m.) the order shall be considered received working day. If the CUSTOMER has not received an order confirmation by 15:00 p.m. on the seventh working day, they must verify whether LIVAR has received the order at all.
- 6.2. LIVAR is not obligated to accept the change or cancellation of an order arriving 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 if the quantity of the delivered products differs from the confirmed quantity by a maximum +/- 5 percent. Any differences shall be taken into account in the next delivery and accounted for in the next order or the order shall be closed based on the written consent of the CUSTOMER.

## 7. PAYMENTS

- 7.1. The CUSTOMER is obliged to pay for the products within the agreed period from the date of the invoice. Potential billing dispute is limited to eight (8) business days after its issue.
- 7.2. Upon payment, the CUSTOMER must specify the invoice reference and, in case of partial payment, the payment reference. If the CUSTOMER does not specify the reference of the invoice paid, the amount paid shall cover the previous outstanding invoices in order of due date.
- 7.3. If the CUSTOMER submits a reasonable objection to a part of the invoice, they shall be obliged to pay the uncontested part. The CUSTOMER is also obliged to pay the delivery invoices after the delivery which is subject to dispute, without reference to any previous solutions of allegedly non-conforming deliveries.
- 7.4. The payment shall be made by a bank transfer. The payment is considered complete when the total amount charged is on the LIVAR's bank account.
- 7.5. All banking and other costs associated with the payment and levy on payment shall be covered by the CUSTOMER in such a way that the amount on LIVAR's bank account is the amount specified on the invoice without deductions or expenses.
- 7.6. Once per calendar year, the CUSTOMER and LIVAR shall coordinate their accounts receivables and/or transactions with the IOP form, if the CUSTOMER is from Slovenia, or with a special record.
- 7.7. LIVAR reserves the right waive their accounts receivables toward the CUSTOMER without CUSTOMER'S consent.



## 8. PAYMENT DELAYS AND INSURANCE OF PAYMENTS

- 8.1. In case of payment delays, the CUSTOMER is required to pay late payment interests charged by LIVAR according to the prescribed interest rate.
- 8.2. If the CUSTOMER delays payment, LIVAR shall also be entitled, in addition to the right to default interest, to carry out one or more of the following measures of its choosing until the receipt of payment in full (it is required to notify CUSTOMER about this):
  - 8.2.1. To withhold the delivery of products intended for the CUSTOMER.
  - 8.2.2. To withhold the confirmation and entering the order into the system.
  - 8.2.3. To order the immediate payment of the due amount and all not current payments.
  - 8.2.4. To withhold the handover of tools owned by the CUSTOMER.
  - 8.2.5. To fulfill any future deliveries only on the basis of payment in advance.
  - 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 contracts concluded with the CUSTOMER who delays payment 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 set out in point 8.2.
- 8.4. The CUSTOMER undertakes to submit 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 enter into a written agreement 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 file a complaint regarding the accuracy of the quantities delivered within five 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 also required to inform LIVAR on any hidden errors revealed after machining, no later than 6 months after the date of the delivery of castings and within 5 days of discovering the error. After the expiration of this period such complaints are not recognized.
- 10.3. The error notifications must include the data set out in point 10.5. All notifications on product non-compliance must be addressed to [quality@livar.si](mailto:quality@livar.si) and to the e-mail of LIVAR's Key Account Manager responsible for the CUSTOMER. Any notifications or reports not addressed to the addresses specified above shall not be processed and LIVAR shall not be held responsible for any costs incurred or other consequences.



- 10.4. During the assembly and before the shipment of the products, the CUSTOMER must examine the castings/products delivered by LIVAR to ensure the discovery of any errors, particularly:
- deformations, damaged surfaces, which can be subject to complaints by the buyers of the customer;
  - nonconformities in surfaces – shape errors, which can be subject to complaints by the buyers of the customer;
  - excessively grinding or not grinding: visible irregularities which may be subject to complaints by the buyers of the customer;
  - surface shrinkage defects, which may be subject to complaints by the buyers of the customer;
  - porosity and inserts on machined surfaces.

In case of the detection of such defects at the CUSTOMER's premises, all the provisions from these General terms and conditions on handling and charging non-conforming products shall apply. In cases when the products or parts are the subject to complaints regarding such defects between LIVAR's CUSTOMER and the CUSTOMER'S CUSTOMER, LIVAR shall not bear any responsibility. LIVAR shall not be responsible for costs and damages incurred to the CUSTOMER if the latter fails to follow the control procedures during the individual manufacturing phases or fails to record the performed tests depending on the function of the product, such as leak, flow test records etc.

- 10.5. The CUSTOMER is obliged to include the following information in the complaint report:
- The number of LIVAR's delivery note or casting date for products that are subject to complaint report;
  - The number of all machined/used products subject to complaint in proportion to the total number;
  - 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.

- 10.6. The CUSTOMER must use the products in accordance with the FIFO principle: otherwise LIVAR shall not recognize any complaints for products from previous deliveries, if the CUSTOMER first filed a complaint regarding products from subsequent deliveries. Product deficiencies, including those visible after machining, shall be recognized for products within a maximum of 6 months after delivery.
- 10.7. The CUSTOMER is obliged to accept the ordered and finished products (in case of parity EXW) or to allow delivery (in 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 to the current year.
- 10.8. The CUSTOMER must submit up-to-date reports on rejects after the installation or machining is finished. They must also submit up-to-date reports on the results of the product quantity used, if the supplied quantity is divided in multiple series of the process.

They must also submit monthly notifications to LIVAR on the status of rejects: the number of packaging units, gross weight. For any other options of notifications regarding rejects (after three months, six months), LIVAR shall not recognize any costs for products or any additional costs, unless otherwise specified by a special agreement. Based on the data received, LIVAR shall decide whether to return the rejects or if they are to be destroyed by the CUSTOMER.

- 10.9. LIVAR is not liable for any administrative costs of the compilation and submission of complaints by their CUSTOMERS.



## 11. WARRANTY AGAINST DEFECTS

- 11.1. LIVAR shall be responsible for the compliance of the product with the technical documentation and technical specifications. In case of non-compliance issues liability, the liability procedures set out in point 10 shall apply. LIVAR shall not be held liable for inappropriate and incorrect handling, inappropriate and incorrect installation or use of the products, unprofessional repairs and normal wear after the supply of the goods to the CUSTOMER.
- 11.2. If some of the castings are deficient and the number of products with internal, hidden deficiencies is below 1.5% (one and a half percent), LIVAR shall replace the deficient castings with new castings or by issuing a credit note. In this case any additional costs, including the castings machining costs, shall not be reimbursed. If the number of rejects is more than 1.5%, the CUSTOMER is entitled to invoice for the quantities exceeding the threshold of 1.5%. The replacements shall be supplied after the non-conforming castings have been returned to LIVAR, the same applies to the issue of credit notes, if so agreed.
- 11.3. When calculating the costs of machining/repair, the CUSTOMER shall indicate on the invoice the exact costs for individual product codes and to which complaint report reference. Before issuing an invoice, the CUSTOMER may send to LIVAR a spreadsheet with the costs according to the requirements above mentioned requirements.

Before sending the invoice or the 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) for confirmation. The CUSTOMER may invoice LIVAR only after the confirmation by LIVAR or after an agreement on changes has been reached, to the official address of LIVAR or, if agreed, 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 to repair or replace the 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 the repair is carried out by a third party without a previous written consent by LIVAR, they shall bear all the costs of the error correction.
- 11.5. If the rejected castings exceed 1.5% 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 to issue a permit for the further machining/use of castings.
- 11.6. LIVAR provides a 2-year warranty for quality of the products, unless otherwise specified by regulations on mandatory warranty period or by the offer or the written confirmation of the order by LIVAR: for quality of the materials and any internal defects, not visible after machining.
- 11.7. Due to product defects, the CUSTOMER has the rights referred to in point 11.2 to 11.4. In particular, LIVAR shall not responsible for:
- 11.7.1. Damages to objects, persons, property and other;
- 11.7.2. Damage caused by a defective product if the CUSTOMER failed to follow the prescribed control procedures for products or assembly in which the product is installed, including the functionality testing of the product of assembly;
- 11.7.3. Damage caused by the product if the defect occurred due to technical documentation, specifications, instructions and requirements provided by CUSTOMER;
- 11.7.4. Damage caused by the product if it has been improperly installed, overloaded or used out of scope or not according to its function, if there is no record of tightness and permeability tests.



## 12. ACCEPTANCE OF DEFECTIVE PRODUCTS

- 12.1. The products referred to therein and the products rejected by the CUSTOMER on the grounds of manufacturing defects shall be accepted by LIVAR from the CUSTOMER once per month or within the agreed periods. LIVAR shall issue a credit note to the CUSTOMER of the value of the products according to the price list on the day of shipment from LIVAR. Rejected products intended for the acceptance must be separated: the products from the grey and ductile castings or raw and machined castings must not be together in the same packaging units.  
Otherwise, LIVAR is entitled to issue an invoice for sorting costs.

## 13. DAMAGE LIABILITY

- 13.1. LIVAR is only liable for damages due to defects of products and/or other damages, if the damage was caused by gross negligence or intentionally. LIVAR shall not be liable for the loss of profit, manufacture downtime, 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 regarding defective products.

## 14. TOOLS

- 14.1. The CUSTOMER is obliged to finance the tools and becomes the owner of the tools after the invoice for the tool is paid in full. The invoice for the tool shall be issued by LIVAR after the CUSTOMER confirmed the sample in writing. If the CUSTOMER fails to confirm the sample without reasonable grounds within 15 days from the date of receipt of the sample, LIVAR reserves 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 casting tools (molds, core boxes) are delivered by the CUSTOMER, the latter is solely responsible for the dimensional adequacy of the tools and products. Any coordinations shall be arranged on the basis of an additional offer.
- 14.3. The life-time (durability) of the tools designed by LIVAR is defined in the contract for manufacture of tools. In due time, before the expiration of the tool lifetime, LIVAR shall inform the CUSTOMER in writing 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 orders of such product.
- 14.4. The CUSTOMER is required to collect any tools that LIVAR did not use because the CUSTOMER did not submit any orders, for which these tools were intended (unserviceable tools), by 1<sup>st</sup> December of the calendar year. If the CUSTOMER does not reply, the tools may be destroyed three months after LIVAR's request was made.





## 15. PRICES

- 15.1. The applicable price under the contract 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 contract or offer.
- 15.2. The product prices shall only contain costs based on the contract or offer.
- 15.3. The prices shall apply for the minimum quantity of products defined in the contract 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 contract with the CUSTOMER and the presented formula.
- 15.6. The price for items of an individual delivery shall be determined in accordance with points from 15.1 to 15.5 on the basis of LIVAR'S price list valid on the date of shipment.

## 16. INTELLECTUAL PROPERTY AND CONFIDENTIAL BUSINESS INFORMATION

- 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 contract shall not prejudice any right of third parties.
- 16.3. If the technical documentation and specifications for tools and products, their changes or adjustments, is drawn up by LIVAR, the latter 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 date when the agreed price is paid in full.
- 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 trade secret:
  - Information that is marked by the other party as a trade 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 regard the contents of the negotiations and the information transmitted by the other party during the negotiations and the content of the contracts concluded on the basis of these general terms and conditions as a trade secret.
- 16.6. Both parties are obliged to protect the business secrecy of the other party for at least 3 years after the termination of the contract or the termination of cooperation (from the last order).



## **17. UNFORSEEN CIRCUMSTANCES**

- 17.1. In 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 constitutes the reason why the party cannot meet or is unable to meet their obligations in due time, the party is obliged to immediately notify the other party in writing.
- 17.2. In such case, the parties shall in this agree, if possible, on modifications to the contractual obligations. If the contract/offer cannot be fulfilled due to such an event within 90 days from the date of the occurrence, the other party may withdraw from the contract.
- 17.3. The party which was prevented to fulfill their obligations due to unforeseen circumstances shall not be liable for any damage caused to the other party.

## **18. APPLICABLE LAW AND COURT JURISDICTION**

- 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. If an amicable settlement of the dispute between the parties cannot be reached, the dispute shall be resolved by the competent court in Ljubljana.

Ivančna Gorica, 1.10.2019

