

Standard terms and conditions (STC)

Version: 2.02 Status: August 2004

These are the standard terms and conditions (hereinafter referred to as 'STC') of:

LEUROCOM electronic displays GmbH
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I. General provisions and scope

1.
Unless otherwise agreed, the following STC shall apply to all business relations between LEUROCOM electronic displays GmbH (hereinafter referred to as: 'LEUROCOM') and its clients. They shall also apply to all future business relations even if they have not been expressly agreed.

The version that is valid at the time when the respective contract is concluded shall be authoritative.

2.
LEUROCOM shall restrict its business activity within the scope of these STC to legal relations with companies; LEUROCOM shall not enter into business relationships with users. The client, as an individual or legal entity or legally responsible private company, declares that it shall enter into a business relationship with LEUROCOM and at the same time shall exercise its commercial or independent professional activity.

3.
Terms and conditions that differ from, contradict or supplement these standard terms and conditions shall not form part of the contract – even in the event of acknowledgement – unless their validity has been expressly approved in writing.

II. Conclusion of an agreement

1.
Quotations provided by LEUROCOM may relate to the conclusion of purchase agreements, lease agreements or installation and maintenance agreements.

All quotations shall be subject to confirmation and shall be without obligation unless they have been expressly described as binding by LEUROCOM. In particular, the details of weights and measurements, drawings, explanations, descriptions and illustrations in the goods descriptions are industry-standard approximate values and are therefore non-binding in the same way as periods fixed for completion and delivery deadlines.

LEUROCOM shall reserve the right to make technical modifications and other changes, such as changes in shape, colour and/or weight insofar as is reasonable.

2.

LEUROCOM shall be entitled to accept contractual offers by clients within two weeks by sending an order confirmation or forwarding the goods ordered within the same period.

3.

In the event that equipment needs to be installed and official or private permits are required for this purpose, these should be obtained by the client in good time prior to installation and submitted to LEUROCOM unsolicited.

4.

Prices indicated are net prices without exception, i.e. statutory VAT is not included. For quotations provided on conclusion of a rental agreement, the price details shall relate to the rent to be paid by the client per individual period of time.

Unless expressly agreed otherwise, all prices shall be ex works without packaging, carriage, postage and insurance. The same shall also apply to lease agreements.

Customs duties, consular fees and other taxes, charges and fees collected in accordance with regulations of countries outside of the Federal Republic of Germany and any costs associated with these shall be borne exclusively by the client.

5.

Contracts shall be concluded with the proviso that the service shall not be provided or only provided in part in the event of incorrect or incomplete self-supply. The client shall be notified immediately in the event of non-availability or only partial availability of the respective service. The client shall be reimbursed immediately for any reciprocal service already provided.

6.

Amendments or additions to contractual arrangements shall require express written confirmation by LEUROCOM in order to be valid.

III. Terms of delivery and dispatch

1.

Unless expressly agreed otherwise by the parties, the type of dispatch shall be selected at LEUROCOM's discretion.

2.

Production and delivery deadlines or periods which have not been expressly agreed as binding shall simply represent information that is without obligation. The respective delivery period indicated by LEUROCOM shall not commence until technical questions are answered; the customer shall also duly fulfil all obligations incumbent upon it in good time.

Delivery deadlines shall be deemed met if the goods are ready for dispatch at the agreed time and the customer is notified thereof. Delivery deadlines shall be extended in the event of action taken in the context of industrial disputes, in particular strikes and lock outs, and in the event of unforeseen obstacles, which are beyond LEUROCOM's control, for example delays in the delivery at our works of essential materials, provided such obstacles can be proven as having a significant influence on the delivery of the relevant item or items. This shall also apply if sub-suppliers are affected by such circumstances. Delivery deadlines shall be extended commensurate with the duration of such obstacles or LEUROCOM shall be entitled to cancel the obligation to deliver in full or in part inasmuch as it is not definitively impossible to provide the service. The customer should be notified of such obstacles and similar ones and their removal as soon as possible.

3.

Shipment and dispatch shall not be insured. If the customer expressly requests (transport) insurance, LEUROCOM shall be entitled to issue the customer with a separate invoice for the additional costs incurred in this respect.

4.
LEUROCOM shall essentially be entitled to provide partial services provided that this does not result in any significant disadvantages for the customer.

5.
The risk of accidental loss or accidental deterioration of the item sold or leased shall transfer to an appropriate transport agent upon handing over or, in the case of shipping – even in the case of carriage paid deliveries – upon delivery of the goods.
The same shall apply to handing over if the customer is in default as regards acceptance.

6.
If dispatch is delayed at the purchaser's request or through fault on the part of the latter, LEUROCOM shall store the respective items at the purchaser's expense and risk.

IV. Payment terms

1.
The customer shall undertake in the event of delivery against invoice to pay all invoice amounts without deductions within 8 days of the invoice date at the latest; the day the amount due is received at the payment office specified by LEUROCOM is authoritative in this respect. If amounts have not been paid by the end of this period, the customer shall be in arrears.
If the customer is a company, it shall be required to pay interest on the outstanding amount during the period of arrears at 8% above the basic interest rate. However, LEUROCOM shall reserve the right to demonstrate and claim higher interest on arrears.

2.
If a transfer of the respective payment is not possible at the time due from the country from which the payment is to be made, the customer shall still pay the equivalent of the amount owed into a bank in the respective country at the appointed time. In the event of a fall in the exchange rate in respect of amounts paid in a currency that has not been agreed, the customer shall offset this by making a supplementary payment.

3.
The customer shall only be entitled to offset amounts if its counterclaims have been legally established or recognised by LEUROCOM. The customer may only exercise a right of retention if its counterclaim is based on the same contractual relationship.

4.
Bills of exchange shall only be accepted for purposes of fulfilment and only if agreed and provided that they can be discounted. Taxes and discount charges shall be calculated from the invoice due date.

V. Retention of title

1.
LEUROCOM shall retain the title and copyright on all drawings, software programs and miscellaneous documentation. They may not be made accessible to a third party without LEUROCOM's approval and must be returned on request.

2.
LEUROCOM shall retain title of items sold (reserved goods) until all outstanding accounts arising from an on-going business relationship have been paid in full.

2.1.
The customer shall undertake to handle goods with due care during the retention of title period and to insure these goods adequately at its own expense against fire, water damage and theft at their replacement value. If maintenance and inspection work is necessary, the customer shall carry out such work on a regular basis at its own expense.

2.2.

During the retention of title period, the customer shall undertake to notify LEUROCOM immediately of any third-party access to the goods (e.g. in the event of a seizure of property) and any damages or destruction of goods, and to make available all information and documentation that are required in order to protect LEUROCOM's rights. LEUROCOM's ownership shall be pointed out to enforcement officers and third parties.

The client shall report, without delay, a change of ownership of the reserved goods and a change of its own registered address.

2.3.

LEUROCOM shall be entitled in the event of breach of contract on the part of the customer, in particular default in payment or in the event of a breach of an obligation in accordance with 2.1 and 2.2 of this provision, to terminate the agreement and reclaim the reserved goods.

2.4.

The customer shall be entitled to sell the reserved goods on in the ordinary course of business or to use them in the context of a service contract. The customer shall not be permitted to dispose of the reserved goods in any other way, in particular pledging or transfer by way of security. If the law of a country outside of Germany shall be agreed, and the retention of title is not valid in the above form in accordance with this law, the customer shall be aid in establishing a collateral right in respect of LEUROCOM in accordance with the provisions in its respective country.

The customer shall assign all outstanding debts arising from the onward sale of the reserved goods or due to other legal grounds in respect of third parties to LEUROCOM; LEUROCOM herewith accepts the assignment. The customer shall be authorised to recover such debts after the assignment, but LEUROCOM's entitlement to recover debts itself shall remain unaffected by this. However, LEUROCOM shall undertake not to recover outstanding debts provided that the customer duly complies with its payment obligations and is not in arrears. If this is the case, LEUROCOM may request that the customer discloses details of the outstanding debts assigned and of the debtors, states all information required for collection purposes, hands over the associated documentation needed in this respect and notifies the third-party debtor of the assignment. The costs incurred by LEUROCOM as a result of the assertion of the retention of title right shall always be borne by the customer.

2.5.

The reworking or transformation of reserved goods by the customer shall always be carried out for LEUROCOM. If goods are reworked using items not belonging to LEUROCOM, LEUROCOM shall acquire co-ownership of the new item in proportion to the value of the reserved goods in relation to the other reworked items.

The same shall apply if the reserved goods are combined with other items not belonging to LEUROCOM. If the customer's item should be regarded as a primary item as a result of the combination, the customer and LEUROCOM agree that the customer shall transfer proportionate co-ownership in this item to LEUROCOM; LEUROCOM accepts this transfer herewith.

The customer shall safeguard the sole or co-ownership resulting from the reworking, transformation or combination on behalf of LEUROCOM.

2.6.

LEUROCOM shall undertake to release the securities to which it is entitled insofar as the realisable value of its securities shall exceed the outstanding debts to be secured by more than 10%. LEUROCOM shall be responsible for selecting the securities to be released.

VI. Acceptance

1.

In the event of delivery ex works, the customer may perform works acceptance at its own expense or arrange this to be carried out by a suitable third party. The basis of this shall be the respective valid LEUROCOM quality documents.

2.

If the customer shall not perform works acceptance, it shall declare its acceptance of the quality delivered. Exceptions in this respect are damages incurred during transportation which have been caused by LEUROCOM and these can be proven.

3.

The customer shall be responsible for the costs of final acceptance on site, unless this has been expressly offered and confirmed by LEUROCOM.

4.

The basis for visual quality shall be the respective LEUROCOM terms and conditions of acceptance, unless agreed otherwise in writing. Additional visual features cannot be claimed as defects.

5.

The customer shall confirm in an acceptance report that it agrees to the subject of the delivery. Legitimate defects to be remedied shall be recorded and signed off in writing; these shall be remedied by LEUROCOM within an appropriate period. Subsequent defects, which cannot be demonstrated as having been caused by LEUROCOM, shall be chargeable to the purchaser.

VII. Warranty terms and guarantee conditions for purchase agreements

The warranty terms and guarantee conditions shall comply with the following provisions:

1.

Used items may show signs of use; these shall not constitute a defect. There is no warranty cover in the event of the sale of used items, even if the defect occurred following conclusion of the agreement and prior to the transfer of risk.

The lack of warranty cover shall not apply if LEUROCOM can be reproached for gross negligence, fraudulently failed to mention the fault, or guaranteed the condition of the items; and also in the event of physical injury, damage to health and loss of life attributable to LEUROCOM. Liability in accordance with compulsory statutory regulations such as the German Product Liability Act shall also remain unaffected.

2.

Natural wear and tear shall not be included in the warranty under any circumstances. Moreover, no responsibility shall be accepted for damage that has arisen as a result of inappropriate or incorrect use, incorrect assembly or commissioning by the customer or a third party or as a result of any other incorrect or negligent handling. The warranty shall also not cover any inappropriate modifications or repair work undertaken by the customer or third parties.

3.

LEUROCOM shall guarantee defects in bought items in the first instance at its own discretion by rectifying the respective defect or delivering a replacement item.

LEUROCOM shall be entitled to invoice a customer for additional costs incurred in the context of subsequent performance, which are the result of the customer taking the goods to a place other than its own business premises after delivery, unless LEUROCOM has arranged to install the goods supplied at the respective location.

4.

If subsequent performance shall fail, the customer may reduce payment (reduction) at its discretion in accordance with statutory provisions, terminate the agreement (withdrawal), or request compensation for damages instead of the service or the reimbursement of expenses that have proved futile. If the customer shall opt for compensation instead of the service, the limitations of liability pursuant to X Sections 1 and 2 of these STC shall apply.

5.

Customers must report visible defects in writing within two weeks of receipt of the goods to the contact address listed initially; otherwise it shall not be possible to assert a warranty claim. The timely dispatch of notification of the respective defect shall be sufficient in order to observe the deadline.

The customer shall have the full burden of proof in respect of all claim prerequisites, in particular in respect of the defect itself, the time when the defect was noticed and the punctuality of notification of the respective defect.

6.

In the event of damage during transportation, the customer shall undertake to inform LEUROCOM of this immediately and to offer support to the best of its ability in the asserting of claims against the respective transport company or transport insurance company.

7.

In the case of bought items, the warranty period shall be one year from delivery unless there is no warranty cover. This one year warranty period shall not apply if we can be reproached for gross negligence, the defect has fraudulently not been mentioned and in the event of physical injury, damage to health and loss of life; our liability in the event of compulsory statutory regulations, such as the German Product Liability Act, shall also remain unaffected.

8.

The mere presentation of the goods shall be considered purely as a description of the service and not as a guarantee of the nature of the goods.

VIII. Lease terms and conditions

1.

On conclusion of an (equipment) lease agreement, the respective lease shall end on expiry of the term for which it was agreed, provided that it was not legitimately terminated, or extended, prior to this due to exceptional circumstances.

LEUROCOM shall make the leased property available for collection together with accessories and operating instructions by the start of the lease period at the latest. Installation and setting up of the leased property by LEUROCOM on the customer's premises is essentially not included in the agreement.

2.

LEUROCOM shall remain the owner of both hardware and any software provided with the leased property. The customer shall be granted a non-exclusive right to use the operating and application software for the term of the lease. The customer may only make copies of the software as required for agreed system use, in particular for back-up purposes.

The customer shall not be permitted to allow a third party use of the object of the contract without the express written consent of LEUROCOM or to assign the rights of use granted to it to a third party.

LEUROCOM's ownership shall be pointed out to enforcement officers and third parties. The customer shall report, without delay, a change of ownership of the leased property and a change of its own registered address.

3.

The customer shall undertake to treat the leased property with respect and in a professional manner and to comply with all regulations and technical specifications that are essential for its use.

4.

The customer shall undertake to inform LEUROCOM immediately of any defects that come to light during the lease period, any damage to or the destruction of the leased property and any access to the leased property by a third party.

LEUROCOM shall be entitled to make leased property of equal value available to the customer.

5.

LEUROCOM shall be entitled to inspect the leased property at any time or to arrange inspection by an appointed party – following prior consultation with the customer – or to examine the property itself or

arrange an examination to be made by an appointed party. The customer shall undertake to support LEUROCOM as far as it is able.

6.

On expiry of the lease period, the customer shall undertake to return all the leased property to LEUROCOM at its headquarters in an appropriate condition and during the normal business hours of LEUROCOM; this shall include all copies of programs made by the customer and stored on data carriers.

In the event of a breach of the obligation to return goods, LEUROCOM shall be entitled to request compensation for the period exceeding the term of the agreement, to the amount of the previously agreed rent. Claims for damage over and above this shall remain unaffected.

7.

LEUROCOM shall be entitled to request the provision of security by the customer for the duration of the lease. The customer shall be entitled to provide security by submitting an unconditional, unlimited, irrevocable and directly enforceable bond from an authorised EU bank or bonding company.

IX. Installation and maintenance

1.

In the event that an installation or maintenance agreement is to be agreed separately from a purchase or lease agreement, the rates for working hours and premiums for overtime, night work and working on Sundays and bank holidays and for planning and monitoring agreed when the order was placed shall apply. Furthermore, travel expenses, the costs of transporting tools and field allowances shall be reimbursed. If fixed calculation rates have not been agreed, the standard reimbursement rates shall be deemed agreed.

2.

If the customer shall want firm price details, a written quotation shall be required. Such quotations and preliminary work shall be subject to costs and reimbursement as agreed.

If an order is placed on the basis of a quotation, any costs in respect of this and the costs of any preliminary work shall be charged on the respective order invoice.

3.

The customer shall undertake to assume responsibility for the following services at its own expense and to provide these in good time: all building, scaffolding and other ancillary work performed by another trade, including the scaffolding, lifting gear and other equipment together with access for the respective vehicles.

The customer shall be responsible for mains connections to the place of use and connection to the standard building terminal and supply lines. In addition, the customer shall make a lockable space available that is suitable for housing electronic control and data equipment.

4.

Liability on the part of LEUROCOM in conjunction with installation or maintenance shall comply with the provisions of service contract legislation unless otherwise agreed. If the customer shall opt for compensation instead of the service, the limitations of liability pursuant to X Sections 1 and 2 of these STC shall apply.

The rights of the customer on account of defects shall expire by limitation one year after acceptance of the respective work. This one year warranty period shall not apply if we can be reproached for gross negligence, the defect has fraudulently not been mentioned and in the event of physical injury, damage to health and loss of life; our liability in the event of compulsory statutory regulations, such as the German Product Liability Act, shall also remain unaffected.

X. Limitations and exemption of liability

1.

LEUROCOM shall not be liable in the case of minor negligence in the breach of non-essential

contractual obligations. LEUROCOM shall be liable for damage caused by simple negligence – provided that there has been no breach of primary obligations (cardinal obligations) under the terms of the agreement – limited to foreseeable, typically occurring damage.

2.

The limitations of liability above shall not affect claims by the customer arising from compulsory statutory regulations, such as the German Product Liability Act. Furthermore, the limitations of liability shall not apply in the event of physical injury, damage to health or loss of life attributable to LEUROCOM.

3.

The customer shall exempt LEUROCOM from all damages which may be incurred by a third party on account of detrimental action on the part of the customer, irrespective of whether or not such action is intentional or negligent. In particular, the customer shall exempt LEUROCOM from all claims arising from an infringement of third-party industrial property rights, where the objects of the contract are produced in accordance with drawings, patterns or other specifications provided by the customer.

XI. Compensation in the event of non-acceptance

In the event of the unjustified non-acceptance of goods, the customer shall undertake – notwithstanding the option on the part of LEUROCOM to claim higher damages – to pay flat rate compensation of 30% of the purchase price. However, the customer shall reserve the right to prove that damage has not occurred or significantly less damage has occurred.

XII. Final provisions

1.

The law of the Federal Republic of Germany shall apply. The provisions of the United Nations Convention on Contracts for the International Sale of Goods (UN sales law) shall not apply.

2.

The place of performance for all contractual and legal claims shall be LEUROCOM's registered office. If the customer is a business, legal entity under public law or public law special assets, the sole place of jurisdiction for all disputes arising from this agreement shall also be LEUROCOM's registered place of business. The same shall apply if the customer has no place of general jurisdiction in Germany or its domicile or usual place of residence is not known at the time of the institution of legal proceedings. However, LEUROCOM shall be entitled to institute legal proceedings at the customer's principal place of business.

3.

In the event that individual provisions in the agreement reached with the customer, including these STC, shall be or shall become null and void in full or in part, the validity of the remaining provisions shall not be affected. The provision that is partially or completely null and void shall be replaced by one that most closely reflects the financial purpose of the provision that is null and void.

LEUROCOM electronic displays GmbH

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