

**General Terms and Conditions**  
**LAUDA Ultracool, S.L.U.**  
**(Version March 2012).**

**1. General Conditions.**

- 1.1 These General Terms and Conditions are only intended to apply in the business relationships to be hold between LAUDA Ultracool, S.L.U. (hereinafter referred as “*the Seller*” or “*LAUDA Ultracool*”) and merchants (hereinafter referred as “*the Client*”). Both of them are together referred as “*the Parties*”.
- 1.2 The relationship between the Parties is exclusively governed by the Order Confirmation- which will be issued by the Seller, in response to the Client’s Order-together with these General Terms and Conditions. For avoidance of doubt, the documents exchanged between the Parties as i.e. Enquiry, Initial Quotation, Quotation, Order and/or any other document in writing which refers to any term and/or condition of sale/purchase, are not binding. Any amendments or additional agreements intended to modify the Order Confirmation and/or these General Terms and Conditions must be confirmed in writing by the Seller.
- 1.3 The Seller reserves the right to make technical improvements and modifications in the product/s even without prior notification at any time.
- 1.4 The Seller may store and process Client’s information and terms and conditions information in data processing systems.
- 1.5 The place of performance is Seller’s premises located in Spain, 08228-Terrassa, c/ Colom num. 606. For all disputes arising out of the Order Confirmation and/or these General Terms and Conditions the courts of jurisdiction shall be Terrassa as competent courts of LAUDA Ultracool’s registered office. The Seller is also entitled to initiate any legal action against the Client at the jurisdiction of his registered office. The contract shall be construed and interpreted in accordance with the laws of Spain, it is expressly excluded the application of the ‘UN Convention on the International Sale of Goods’ (CISG).
- 1.6 If a dispute arises between the Parties with respect to the interpretation of these General Terms and Conditions, it shall be considered the English version, unless the Client is Spanish national, in which case the Spanish version shall be considered.

**2. Delivery, delivery costs and risk**

- 2.1 LAUDA Ultracool may deliver in partial shipments.
- 2.2 The delivery is EXW Terrassa (Incoterms).

2.3 Together with the delivery of the product/s the Seller shall deliver the delivery note and the instructions for using the product/s. The invoice will be provided separately and the warranty terms shall be indicated in the Order Confirmation.

### **3. Delivery period, delay**

3.1 The period to deliver, which is indicated in the Order Confirmation, shall commence once all technical issues are settled and after the Seller's receive all documents, as permits required from the Client or from authorities, if apply, as well as any advance payments agreed.

3.2 LAUDA Ultracool is not responsible for acts of God or any events as i.e. strikes, lockouts, operating breakdowns, shortages of raw materials or means of productions delayed deliveries or failure of delivery by Seller's suppliers. In those cases the period to deliver shall be extended accordingly. Additionally, the period to deliver shall be extended in the event the Client requests any modification in the product/s.

3.3 In the event of default or late delivery due to the circumstances foreseen in point 3.2 the Seller shall inform the Client. Afterwards, the Client has to send the Seller a communication setting a reasonable period of grace.

3.4 In the event of compensation for damages caused by late deliveries, LAUDA Ultracool's liability for compensation besides performance shall be limited to 5% and for compensation instead of performance to 10% of the value of the product/s to be delivered. Any compensation shall apply in cases foreseen in point 3.2.

### **4. Conditions of payment**

4.1 The prices quoted shall be established in the Order Confirmation. If applicable, VAT will be added. Spare parts are charged according to Seller's current Price Conditions or as offered.

4.2 Seller's prices do not include costs for taking back recycling or disposal of waste equipment. In the event the Client wishes so, Seller, after express consent, may organize the taking back, recycling or disposal of such waste equipment at the expenses of the Client.

4.3 Unless otherwise agreed, the invoices are due immediately and shall be paid in full, without deduction, in the bank account indicated in the Order Confirmation. In the event the Client pays in a currency different to the EURO the amount to pay shall be exchanged to EURO according to the currency exchange on the date that the amount is transferred to the Seller's bank account. Any bank costs shall be borne by the Client. The delayed payment entails accrued interests to calculate according to the rate interest for delayed payments foreseen for commercial transactions.

- 4.4 In the event the Seller has reasons to believe that there could be failure of the Client to fulfill the payment obligation, due to Client's overdue, the Seller reserves the right to cancel the Order Confirmation at any time, request a payment in advance or to establish a guarantee as wide as the amount of the corresponding invoice.
- 4.5 In the event that the delivered product completely differs from the one agreed in terms of quantity or whether the Client notifies apparent defects immediately- considering the periods set in point 7.2- the Client shall neither be entitled to offset nor to withhold payments for products received.

## **5. Installation**

- 5.1 LAUDA Ultracool does not render services of installation. Any service related to the installation of the product/s may be rendered by LAUDA DR. R. WOBSEER GMBH & CO. KG., those services shall be subjected to the terms and conditions expressly agreed with that entity.

## **6. Reservation of property rights**

- 6.1 The delivered product/s shall remain as Seller's property until open liabilities of the Client have been fully paid for.
- 6.2 The Client may resell products in the normal course of business only after having them fully paid to the Seller and provided that the products to resell have not been assigned, pledged, attacked or otherwise encumbered in any manner.
- 6.3 The Client shall not combine Seller's product/s with other good/s that are subjected to rights of third parties, unless the Seller and the Client have it expressly agreed given the corporate purpose of the Client.
- 6.4 The Client expressly assigns to the Seller the credits- consequently the right to claim the credits- arising from the resale of the delivered products (6.2.) or the newly constituted products (6.3) up to the amount of the Seller's invoice related to such product/s. The Client undertakes to exclusively assign any and all revenue received from his own customers -due to the resale of the products aforementioned (resale of delivered products and/or newly constituted products)- to pay the amounts owed to the Seller.
- 6.5 In the event of delay in the payment, the Seller is entitled to cancel the Order Confirmation and, even without cancellation, to claim the products which would be handed over to the Seller. In order to determine Seller's rights, the Seller is entitled to have all the Client's documents/books affecting to Seller's proprietary rights to be inspected by a person from LAUDA Ultracool Company, who will be obliged to observe professional confidentiality. The costs arisen from the inspection and for taking the product back shall be borne by the Client.

## **7. Liability for defects**

7.1 The Seller assumes that its products are free of defects at the transfer of risk.

The quality, performance or other features of the product/s shall only be binding if the Parties have expressly agreed on them in writing. The details in advertisements, instructions of using or reference to industrial standards shall also only be binding if the Seller has expressly assumed their content in writing.

If the Client requires the product/s for special purposes or in the event the Client requires an anticipated use of the product/s, the Client is obliged to check- before using the product/s- their suitability for such purposes. This checking obligation concerns all aspects related to product safety and fulfillment with all relevant technical, legal and official regulations and requirements applicable. The Seller is not liable if such proper checking has not been performed by the Client.

7.2 The Client is obliged to inspect the products as to quantity and defects immediately on receipt. Any apparent defects shall be notified by the Client to the Seller immediately after the delivery and at the latest four (4) calendar days after such delivery. Any hidden defects shall be notified immediately after being discovered and at the latest after thirty (30) calendar days since the delivery. If the Client does not notify the Seller within the aforementioned periods regarding the existence of defects the feasible claims arisen from such defects would expire.

7.3 In case of a defect the Client shall set a reasonable period of time to enable the Seller to eliminate the defect either by repairing the product or supplying the Client with a new product free from defects. In the event of rejection, impossibility or failure of subsequent performance, the Client has the right to demand a decrease of the purchase price or to cancel the Order Confirmation. The Client shall send the product/s back to the Seller unless in the event that the purchase price is decreased.

The Client has to bear all additional costs and expenses to repair or replace the products when those products have been transferred by the Client to another place different to the operational place agreed in the Order Confirmation.

7.4 The Seller is not liable for any damages due to improper use, handling, maintenance, operation or processing or on normal wear.

7.5 Seller's liability for slight negligence is restricted to claims based on injury to life, body or health and to claims arising from the defects in the product/s. Seller's liability for the slightly negligent infringement of the essential terms agreed in the Order Confirmation and/or these General Terms and Conditions is restricted to typically occurring damage foreseeable at the time the Order Confirmation was issued.

7.6 Any judicial claim against the Seller based on hidden defects shall be executed within six (6) months as of the delivery of the products to the Clients. The same shall apply to claims for damages, for whatever legal reason.

The limitation of the aforementioned period shall not apply for claims based on fraudulent concealment of a defect, for claims based on the claims arising from injury to life, body or health, and for the other damages based on intent or gross negligence declared by a judicial resolution.

## **8. Industrial proprietary rights and Confidentiality.**

8.1 The Seller reserves the ownership in any moulds, samples, diagrams, commercial or technical documents provided to the Client as well as all copyrights, proprietary and intellectual property rights in any such item. The Client is not entitled to manufacture Seller's product neither to resale them as product/s manufactured by himself.

8.2 The Client is responsible of the use of drawings, models, samples, or instructions provided to the Seller and warrants that those provided documents do not infringe industrial property rights of third parties. The Client shall assume the payment of all expenses, damages and or any kind of compensation to be paid to third parties and all cash and non-cash expenses to defend any allegation of any infringement even out of courts or in judicial cases.

8.3 All the information acquired by the Client as a result of the business relationship- which is not deemed to be public knowledge- is confidential and may not be disclosed to any third party.