

Standard Terms of Sale and Delivery for LINAK® India Pvt Ltd

1. Application

1.1 All deliveries of products ("Products") from LINAK India Actuator Systems Private Limited, Town Centre 2, 3rd Floor, Unit 305A, Andheri Kurla Road, Sakinaka, Andheri (East), MUMBAI – 400059 Maharashtra, India ("LINAK") to any purchaser ("Purchaser") shall be governed by these standard terms of sale and delivery (the "Terms") to the extent that they are not waived in writing by LINAK. LINAK's acceptance of Purchaser's order is expressly conditioned upon Purchaser's acceptance of these Terms and no addition to, or modification shall be binding on LINAK unless expressly agreed to in writing, none of the Purchaser's conditions shall apply otherwise.

2. Ordering

2.1 Specifications for the products shall be LINAK's specifications, except where specifications are given by the Purchaser and accepted by LINAK in writing.

2.2 No final agreement concerning sale or delivery shall exist between LINAK and the Purchaser until LINAK has communicated its acceptance in the form of an Order Confirmation document or any other explicit written confirmation.

2.3 Except as otherwise specifically agreed in writing by LINAK as acceptance of any of the Purchaser's specifications, LINAK reserves the right to change at any time the specifications of any product manufactured by LINAK (including all statements and data appearing in LINAK's catalogues, data sheets and advertisements) without notice to the Purchaser.

2.4 If there are any discrepancies between LINAK's order confirmation and the Purchaser's order, the Purchaser shall communicate the same with 48 hours Failure to do so means that the Purchaser shall be bound by the contents of LINAK's Order Confirmation.

2.5 After the Order Confirmation is communicated by LINAK to the Purchaser any quotations, pro forma invoices, and other associated correspondence shall not be binding on LINAK.

2.6 No cancellation or alteration of orders is regarded as having been accepted until LINAK has confirmed such cancellation or alteration in writing. In case of cancellation or alteration, the Purchaser shall reimburse LINAK for all reasonable costs incurred in connection with such cancellation or alteration of orders.

3. Prices

3.1 LINAK reserves the right to change prices until a final order confirmation has been issued. LINAK also reserves the right to change the prices of confirmed orders in case of changes in production costs, salaries/wages, cost of material, sub-supplies, exchange rates, expenses imposed by public authorities, and the official discount rate.

4. Tax and duty

4.1 In addition to the purchase price as mentioned in the final Order Confirmation, the Purchaser shall pay any and all tax, duty or tariffs which may be levied on the Products.

4.2 LINAK shall raise an invoice on the Purchaser for the price of the products along with the applicable Goods and Services Tax ("GST"), duties, cess, and any other similar levies as applicable to such supply.

4.3 The Purchaser shall also reimburse LINAK for any additional costs incurred by LINAK in connection with the supply of these Products along with any tax, duty, cess, and any other similar levies as applicable.

4.4 The Purchaser shall inform LINAK of any type of special tax or duty exemption available to the Purchaser. The Purchaser shall make available to LINAK all such information and documentation under this clause prior to the order placement in order to enable LINAK to raise a valid invoice as per the applicable laws.

5. Terms of payment

5.1 Payment shall be made no later than at the time of delivery EXW (Taloja, Maharashtra INCOTERMS 2020), unless otherwise specifically agreed in writing.

5.2 If any payments are delayed, LINAK shall be entitled to claim 2% interest on the purchase price per month or part of a month, as well as to withhold all future consignments. LINAK shall also be entitled to demand that the Purchaser pays all reasonable costs incurred in connection with any action undertaken to secure such payments. This shall be in addition to, and not in limitation of, any other rights or remedies to which LINAK is or may be entitled to in law or in equity.

5.3 The Purchaser shall not be entitled to withhold any payments in respect of alleged claims against LINAK, unless such claims have been accepted in writing by LINAK in advance.

5.4 If the Purchaser fails to take delivery of consignments or part-consignments, which are ready for delivery on the agreed day, the Purchaser shall nonetheless pay for the Products as if delivery had taken place, in the absence of any agreement to the contrary.

6. Terms of delivery

6.1 Unless otherwise agreed in writing by LINAK, all deliveries by LINAK shall be Ex-Works (Taloja, Maharashtra) (INCOTERMS® 2020), and the Purchaser shall bear all risks in case of loss, damage, or delay during transport from the instant the Products have been handed over to the transport agent or as soon as the Products have been removed from LINAK's or its agent's warehouse or similar establishment. These conditions are applicable even in cases where LINAK has agreed to bear any part of the transportation costs.

6.2 If agreed to in writing, LINAK may deliver in FCA (Taloja, Maharashtra) (INCOTERMS® 2020).

6.3 In the absence of any agreement to the contrary, transport shall be performed using the means LINAK deems best without any liability for LINAK.

6.4 LINAK undertakes to take appropriate measures to deliver on time. If a delay nevertheless occurs, LINAK shall be entitled to postpone the time of delivery for up to 30 days without the Purchaser being entitled to cancel the order. A late delivery shall not entitle the Purchaser to claim compensation.

7. Retention of Title and Lien over the Products

7.1 Until LINAK has received full payment for Products delivered, such Products shall remain the property of LINAK even though the Purchaser has started to use or process the Products or started incorporating the Products in its own application.

8. Intellectual property rights

8.1 LINAK reserves all rights to Products and their design. Products may not be copied or given to any third parties with a view to copying the Products. All drawings and descriptions sent to the Purchaser shall remain the property of LINAK, and may not be copied, transferred or in any other way communicated with any third parties without the consent of LINAK.

8.2 If the provision in clause 8.1 is violated, the Purchaser shall compensate LINAK for any loss attributable to unlawful copying; and all costs incurred in connection with the pursuit of securing LINAK's rights and interests.

8.3 In case of a development project should a third party claim intellectual property rights such as patents, design patents, copyrights, trademarks and similar rights against LINAK, the Purchaser of the products shall indemnify LINAK all costs such as legal and court costs and any damages resulting from such claim provided that the claim is a result of the Purchaser's specifications and requirements.

9. Embedded Software

9.1 LINAK or LINAK's licensors are the owners of all rights with respect to any software embedded in its products. There is no transfer of any right of ownership under these Terms.

9.2 If Products are delivered with embedded software, LINAK provides the Purchaser with a non-exclusive, software license in the form of a 'right to use' such software solely for the purposes set out in applicable Product specification. Aside from this, the Purchaser obtains no rights in form of license, patent, copyright, trademark or other proprietary right connected with such software. The Purchaser shall not obtain any rights to software source code nor shall the Purchaser attempt to access such source code.

transfer of any right of ownership under these Terms.

9.3 The Purchaser shall not copy, modify, translate, reverse engineer, or decompile the software embedded in the Products.

9.4 If Products are delivered with embedded software, the Purchaser shall be responsible for keeping the software up to date following delivery, by installing necessary updates offered by LINAK.

10. Technical changes and approval

10.1 LINAK reserves the right to make technical and other changes in Products including ordered Products without notice if it can be done without changing the agreed technical specifications.

10.2 LINAK is not liable for absence or misinterpretation of information in catalogues and other written material drawn up by LINAK.

10.3 The Purchaser shall be fully liable for its application, use and operation of any Product, whether or not such application, use or operation has been approved by LINAK. It is the responsibility of the Purchaser to ensure that the Products specified meet the performance criteria defined by the Purchaser for their application. LINAK cannot assess the impact of all the conditions under which the Products shall be operated. This includes but is not limited to suspension of the actuator; vibration; load curve; exposure to outside elements like temperature and moisture; duration and frequency of use, safety, etc. The suitability of the Products and the Products performance under such varying conditions can only be verified by testing and the responsibility for this testing and validation lies solely with the Purchaser. This includes but is not limited to testing the Products in the Purchaser's application and ensuring the suitability when connecting the Purchaser or third parties' components to the Products. Products may not in any circumstances be used in aircraft or in connection with nuclear power of any kind.

10.4 The Purchaser undertakes to apply for all necessary national or international approvals of any application in which Products are used.

11. Complaints

11.1 The Purchaser shall inspect consignments immediately upon delivery to check for any shortages, defects, errors, or any other deviations from the specifications as agreed in the Order Confirmation. If the relevant defects could have been discovered during the Purchaser's inspection on receipt of the delivered Products and the Purchaser wishes to raise a complaint with regard to any error or defect to LINAK, the Purchaser shall submit such complaints to LINAK no later than 5 days after receipt of the Products.

11.2 Defects of part of the delivery shall not entitle the Purchaser to make claims in relation to the entire commodities within the delivery.

11.3 Any complaints or claims in relation to hidden defects which are difficult to discover during the course of customary examination upon receipt of the Products shall be addressed directly to LINAK.

11.4 LINAK shall not be held liable for any damage or loss occurring during transport and claims under such circumstances may only be made against the transport agent concerned.

12. Cost-free repairs and replacement

12.1 LINAK agrees to repair, replace, or credit Products that are found to be defective, at time of delivery, due to faulty manufacture, design and/or defective materials, provided that Purchaser makes a claim to LINAK within 18 months from the date of production as stipulated on the Product label, unless otherwise agreed (the "Claim Period"). Cost free repair and replacement under this clause shall be extendable only to defects that were discovered during use of the Products and shall not extend to defects that could have been reasonably identified at the time of delivery. It shall be LINAK's sole discretion to consider the nature of defect, extent of LINAK's liability, and extend cost free repair and replacement under this clause.

12.2 If batteries are provided by LINAK as a part of a Product, the Claim Period for such batteries pursuant to this clause shall be 12 months from production as stipulated on the Product label.

12.3 If Purchaser discovers defects within the Claim Period, the Purchaser shall in writing inform LINAK of such alleged defects and the Product shall then be sent to LINAK or to any other address determined and designated by LINAK with freight and insurance paid by the sender, accompanied by a description of the reason for such return. If LINAK accepts that the Product is defective and the Purchaser has complained within the Claim Period, LINAK shall dispatch the Product after replacement or repair free of charge. LINAK shall reimburse the Purchaser for the freight costs incurred by the Purchaser in sending the defective Product to LINAK's place of business, but only if LINAK has approved in writing of the method of dispatch and the costs incurred prior to the dispatch of Products. If however, LINAK's analysis shows that the Product is not defective, LINAK may return the Product to the Purchaser at Purchaser's cost and risk, and LINAK may charge a fee for the time and materials used in analysing the allegedly defective Product.

12.4 Re-delivery or repair under this clause shall under no circumstances be performed outside LINAK places of business, unless otherwise agreed by LINAK. LINAK shall not in any circumstances remove, replace or remount Products which have been incorporated in other non-Products.

12.5 Excluded from cost-free repairs and replacements are Products delivered with embedded software where claims arise from (i) combination of Products with any hardware or software not manufactured or not provided by LINAK; (ii) the Purchaser's specifications being different from the agreed written specifications; (iii) nonconformity not discovered by LINAK during release and quality testing nor by Purchaser during Purchaser's quality testing and approval; (iv) failure to update such software as necessary; and (v) any alteration or modification to Products, except those alterations or modifications made by LINAK or specifically agreed to by LINAK in writing.

12.6 In case of defects in software covered by clause 12.1, cf. clause 12.5 the Purchaser's sole remedy and LINAK aggregated liability shall be limited to LINAK providing and/or replacing any defective parts in the Products by supplying new software components to the Purchaser. LINAK shall not be responsible for replacement of Products or part of Products in the Purchaser's applications, including but not limited to any kind of field updates.

12.7 Unless otherwise expressly stated in these Terms, Products are supplied "AS IS", "WHERE IS" and "WITH ALL FAULTS", LINAK does not extend any warranty, written, expressed nor implied for implied merchantability or fitness for particular purpose.

12.8 Products shall not be subject to clause 12.4 regarding cost-free repairs or replacement, if LINAK has determined, in its sole discretion, that the Purchaser has misused the Products in any manner, has failed to use the Products in accordance with industry standards and practices or has failed to use the Products in accordance with any instructions, if any, provided by LINAK. This right to cost-free repairs or replacement does not cover any defects or damage to the products which are due to improper installation or maintenance, misuse, or neglect.

12.9 LINAK accepts no liability for wear and tear nor for Products which have been subject to violent treatment or inadequate maintenance.

12.10 LINAK shall not extend such cost-free repair as defined in Clause 12.1 and 12.3 if the total price for the Products has not been paid payment.

12.11 LINAK's segment specific terms of warranty as available on LINAK's Website ("LINAK's Warranty Papers") shall be applicable to the Products herein. In case of any conflict between these Terms and LINAK's Warranty Papers, it is hereby agreed that LINAK's Warranty Papers shall prevail.

13. Product liability

13.1 LINAK shall be liable for product liability in accordance with applicable legislation in this connection but does not assume liability in any degree beyond that specified by applicable legislation.

13.2 The Purchaser shall indemnify LINAK to the extent that LINAK is liable vis-à-vis third parties for any damage or loss for which LINAK is not liable vis-à-vis the Purchaser in accordance with clause 13.1 above.

14. Limitation of liability

14.1 LINAK shall neither be held responsible nor liable for any special, indirect, consequential, punitive, or exemplary damage or loss, which might arise out of faulty Products, delay in the delivery of Products, product liability, recall or otherwise, irrespective of cause, including but not limited to, loss of production, loss of profit, loss of data and/or loss of goodwill.

15. Export Control and Sanctions Compliance

15.1 Quotes and Order Confirmations under these Terms are subject to this clause on Export Control and Sanctions Compliance.

15.2 The Purchaser shall comply with applicable export control and trade sanction laws, regulations, rules, and licenses including those of the EU and U.S. ("Trade Laws"), and is solely responsible for legal compliance, including without limitation a prohibition on direct or indirect use, sales, export, re-export, transfers or otherwise to entities and territories listed in EU - or U.S. if applicable -Trade Laws.

15.3 The Purchaser must prevent third-party violations of these restrictions, including by resellers of the Products. The Purchaser must monitor third-party compliance to prevent misconduct. Violating these terms constitutes a material breach.

15.4 The Purchaser must promptly report any compliance issues to LINAK and upon LINAK's request provide compliance information without undue delay.

15.5 LINAK may cancel or delay orders without liability if restricted by Trade Laws or if fulfilling the order negatively impacts LINAK. No legal claims may arise from such cancellation or delay.

16. Services and consultancy work

16.1 LINAK may from time to time provide the Purchaser with certain services or consultancy work related to the Products or to development of specific Products ("Services"). LINAK will, as applicable, invoice Services on a time and material basis, unless otherwise agreed in writing between LINAK and the Purchaser.

16.2 LINAK will strive to provide any Services in a correct and professional manner. Services are provided to the Purchaser "as is" and LINAK will neither provide any warranty nor accept any liability or responsibility for a certain purpose or suitability. Therefore, the Purchaser will not be entitled to any cost-free repair or replacement pursuant to clause 12 above arising from such Services.

16.3 LINAK will deliver services in a manner and at a time agreed between LINAK and the Purchaser in writing. The Purchaser shall pay all tax, duty or custom duty which may be levied on such Services.

16.4 Any Services provided to the Purchaser or outcome of such Services shall be subject to clause 8 above regarding intellectual property rights.

17. Protection of personal data

17.1 As a part of handling sales and Service requests from Purchaser, LINAK shall process contact and invoice data. Any personal data LINAK may process may be shared with other LINAK group companies. Personal data will not be shared with any third parties other than data processors who process data on behalf of LINAK based on a data processor agreement. These Terms are an extension of LINAK's Privacy Policy which can be found at www.LINAK.in

18. Force majeure

18.1 LINAK is entitled to cancel orders or suspend delivery of Products and shall not be liable for any non-delivery, faulty or delayed delivery, which partly or wholly is caused by circumstances beyond LINAK's reasonable control, including, but not limited to, riots, civil unrest, war terrorism, health emergencies, health epidemic, fire, insurrection, requisition, seizure, embargo or defects or delays in deliveries by sub-suppliers, strikes, lockouts, slowdowns, lack of transportation, scarcity of materials, and insufficient supplies of energy. Any of Purchaser's contractual rights are suspended or become void in any such circumstances referred to in this Clause. Purchaser is not entitled to any kind of damages or to make claim whatsoever in case of cancellation or delayed delivery due to such circumstances.

19. Partial Invalidity

19.1 The Purchaser shall keep strictly secret and not disclose to any third party any confidential information received through doing business with LINAK.

19.2 Confidential Information under this clause includes, but is not limited to, any specification, sales literature, quotation, and other such similar information.

20. Severability

20.1 If one or more of the terms and conditions in these Terms, or the application of any clause to any party or circumstance is deemed invalid, unenforceable, illegal in any respect or inoperable, the validity, enforceability, legality or operability of all further terms and conditions shall not be affected or diminished thereby, and the application of the clauses to other parties and circumstances shall remain valid and in full force and effect.

21. Applicable law and venue for disputes

21.1 Any disagreements or disputes between LINAK and the Purchaser shall be settled by the laws of India without regard to its conflict of law rules.

21.2 Unless LINAK gives its written consent to a process of arbitration, which shall then take place in Mumbai, all disputes shall be settled by legal proceedings at the courts in Mumbai.

Effective as of May 2024.

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