

Agreement on Electronic Data Interchange (EDI) of Invoices



LEGAL PROVISIONS

This Agreement on Electronic Data Interchange (EDI) is concluded by and between:

Linde Material Handling GmbH
Carl-von-Linde-Platz,
63743 Aschaffenburg

and

Name of Supplier -

hereinafter referred to as "the Parties".

Recitals

The Parties are in agreement to transmit their invoice data by electronic data interchange (EDI). All previous agreements concerning invoice interchange via EDI made by the Parties shall become void at the effective date hereof.

In its entirety, this Agreement serves to fulfil VAT requirements, particularly the provisions of the Umsatzsteuergesetz (UStG; German Value Added Tax Act), with respect to the authenticity of the origin and integrity of the data as well as the VAT Directive (2006/112/EC). The Agreement is based on the Recommendation 94/820/EC of the European Commission of 19 October 1994 relating to the legal aspects of electronic data interchange cited in Sec. 14 Subsec. 3 UStG. The use of the recommended European Model Agreement shall safeguard legal certainty for either party and prevent renegotiation in each individual case.

The annex hereto is an integral part of this Agreement.

Now therefore, in consideration of the foregoing, the Parties hereby agree as follows:

Linde Material Handling GmbH
Carl-von-Linde-Platz
63743 Aschaffenburg
Telefon +49.60 21.99-0
Telefax +49.60 21.99-15 70
info@linde-mh.de
www.linde-mh.de

Sitz der Gesellschaft:
Aschaffenburg
Registergericht:
Aschaffenburg HRB 9963
Ust-IdNr. DE 814809128
Ust-Nr. 040 225 46700

Geschäftsführer:
Christophe Lautray
Theodor Maurer (Vorsitzender)
Sabine Neuß
Dr. Matthias Schmitz

Vorsitzender des Aufsichtsrats:
Gordon Riske

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Article 1: Objective and Scope

1.1 This EDI Agreement defines the legal terms and conditions under which the Parties shall operate when conducting transactions with the aid of electronic data interchange (EDI procedure).

1.2 The Agreement consists exclusively of the provisions set out below.

1.3 Unless the Parties agree otherwise, the provisions hereof shall not govern the contractual obligations arising from the transactions handled via EDI.

1.4 With respect to the implementation of the EDI procedure, the Parties shall be entitled to outsource to third parties the fulfilment of their obligations, if the respectively other Party was notified of such intention beforehand and has previously agreed in writing. This shall, however, not release the Parties from their obligations.

Article 2: Definitions

2.1 For the purpose of the Agreement, the following terms are defined as follows:

2.2 EDI

Electronic Data Interchange means the electronic transfer of commercial and administrative data between computers according to an agreed standard for structuring an EDI message.

2.3 EDI Message

An EDI Message is a group of segments which are structured according to an agreed standard, converted into machine-readable format, and can be automatically and unambiguously processed.

2.4 UN/EDIFACT (United Nations Electronic Data Interchange For Administration, Commerce and Transport)

According to the definition by UN/ECE (United Nations Economic Commission for Europe), the UN provisions relating to electronic data interchange for administration, commerce and trade comprise set of internationally agreed standards, directories and guidelines for the electronic interchange of structured data and in particular for the interchange in connection with trade in goods and services between independent computer-aided information systems.

2.5 VDA (German Association of the Automotive Industry)

The Verband der Automobilindustrie is an incorporated association domiciled in Frankfurt and the joint interest group of the German automotive manufacturers and suppliers. The formulating of standards like the VDA recommendations (standards) relating to electronic data interchange for the German automobile industry is one of the functions of the VDA.

Agreement on Electronic Data Interchange (EDI) of Invoices



Article 3: Admissibility in Evidence of EDI Messages

To the extent permitted by their national law which may apply, the Parties agree that in the event of any dispute the records of EDI Messages they have stored according to the provisions hereof shall be admissible in court and constitute evidence of the facts contained therein, unless contrary evidence is adduced.

Article 4: Processing of EDI transmission files

The EDI transmission files shall be processed immediately (without any culpable delay) after receipt.

Article 5: Safety of EDI Messages/Transmission Files

5.1 The Parties undertake to implement and maintain security procedures and measures to protect EDI transmission files from unauthorised access, alteration, delay or loss.

5.2 These security procedures and measures comprise verification of origin and integrity, the non-repudiation of origin as well as guaranteeing the confidentiality of EDI Messages and transmission files in accordance with the level of confidentiality of a paper invoice (no encryption required).

The Parties and any authorised third parties as per Article 1.4 shall guarantee that the transferred EDI Messages/transmission files and the information contained therein shall be treated confidentially and shall not be divulged nor transmitted to unauthorised third parties or used for purposes other than those intended by the Parties.

Any authorised third party shall be bound in writing to the same level of confidentiality. Either Party shall be held liable for third-party negligence as if it were their own fault. The provisions of the German Data Protection Act shall be complied with.

Security procedures and measures relating to the verification of origin and integrity in order to identify the sender of an EDI Message/transmission file and to ensure that each EDI Message/transmission file received is complete and has not been corrupted shall be mandatory for any message and transmission file.

5.3 Where performance of security procedures and measures results in a rejection of an EDI Message/transmission file or in the detection of an error in a message/transmission file, the service recipient shall immediately notify the sender thereof, with the sender identifying the cause of the error without delay and immediately repeating the transmission of the EDI Message/transmission file.

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Article 6: Duties to Preserve and Recording/Logging

6.1 Upon receipt of an EDI Message/transmission file within the scope of the EDI procedure, the service recipient shall store, as a record subject to retention, a chronological record of all errors detected in an EDI Message/transmission file, which prevent processing of the EDI Message/transmission file, for the period records must be preserved under German commercial and tax law.

6.2 The Parties ensure that all error lists according to 6.1 can be accessed and, if necessary, reproduced and printed in human readable form. Any operating equipment required therefore shall be held in readiness.

6.3 Moreover, the sender and the service recipient shall comply with the statutory duties to preserve records incumbent on them and, upon written request of the respectively other Party, make available the retained records to that Party throughout the statutory retention period without any delay if and as far as this is required as proof to an inspecting third party of the integrity and authenticity of the transmitted data and the procedure exercised between the Parties.

Article 7: Operating Requirements for EDI

The Parties undertake to provide and maintain at their respective sites the operational environment required for EDI and the implementation of the provisions hereof, observing, inter alia, the following terms and conditions:

Operating Equipment:

The Parties shall provide and maintain at their respective sites the equipment, software programs and services needed to receive, convert to human readable form, record and store messages and transmission files.

EDI Message Standards:

All EDI Messages shall be transmitted in accordance with the UN/EDIFACT standards, recommendations and procedures approved by the United Nations Economic Commission for Europe (UN/ECE) or with the VDA recommendations (standards) relating to electronic data interchange for the German automotive industry.

Article 8: Additional Measures to Guarantee Authenticity of Origin

The service recipient shall be obliged to synchronise the data transmitted to them with the information in their master database and only process EDI transmission files in case of full conformity of contents and form.

If the VAT ID/tax number or the personal master data of the service provider change, then the service provider shall ensure that the recipient shall be notified of such change without delay, but no later than two weeks before the effective date of the change. The service recipient shall confirm to the service provider the change of their master data (Notice of Change). The changed identification features must not be used before the Notice of Change has been received.

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Article 9: Effective Date, Modifications, Term and Severability

9.1 Term

The Agreement becomes effective on the date of the last signature by the Parties.

Either Party shall be entitled to terminate this Agreement in writing upon 3 months' notice to the end of a calendar month.

The Parties' rights and duties set out in Articles 5 and 6 shall continue to remain in force notwithstanding the termination hereof.

9.2 Modifications

When required, written provisions agreed by the Parties in addition to this Agreement or as an alternative to previously existing provisions shall be deemed part of the Agreement from and including the date of the signing thereof.

9.3 Severability

If any Article of this Agreement or a part thereof should be deemed ineffective, the effectiveness of the remaining Articles shall remain in full force.

Signatures

Aschaffenburg,

Place, date

Place, date

Signature

Signature

Our Enterprises

Our Enterprises

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Annex

If you have any queries regarding this Agreement please contact

Edgar Megerle

Linde Material Handling GmbH
Carl-von-Linde-Platz
63743 Aschaffenburg

Fax +49 6021 99 1414

Edgar.Megerle@Linde-MH.de

Further information:

You will find further technical information and contact partners on the Internet
www.linde-mh.de/EDI or via Email: EDI@kion-ims.com

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