

# General Terms and Conditions of Delivery and Payment

Our deliveries are effected exclusively subject to the terms and conditions specified hereunder. These terms are valid for any and all contracts – including future contracts – with corporate entities and other buyers concerning deliveries of goods and other services. Drop-shipping transactions are exclusively subject to the terms and conditions of the supplier plant commissioned.

## I. Conclusion of contract

1. We shall not be bound by the buyer's conditions of purchase; we explicitly object to any and all such conditions, even if no separate explicit objection is raised upon receipt.
2. Our General Terms and Conditions of Delivery and Payment are deemed accepted at the latest upon receipt of the goods.
3. Our offers are without obligation. Any contracts and other agreements including oral agreements and undertakings – especially insofar as they constitute any alteration of these terms and conditions – are not binding on us unless confirmed by us in writing. The written form requirement is also deemed complied with by fax transmission and/or E-mail messages.

## II. Prices

1. Unless agreed otherwise, all prices are quoted ex works or ex warehouse, excluding freight charges, VAT and/or import duties, according to possibilities of delivery. All shipments are made freight forward.
2. Surcharges on agreed prices and subsequent billing shall be permissible if warranted by exceptional circumstances such as wage increases, strikes, lock-outs, increases in public charges (taxes, customs duties, etc.) and freight charges.
3. Transport packaging and protective materials (wood, paper packaging) will be invoiced separately; this also applies to covered vehicles and special transport vehicles.
4. When invoicing steel deliveries, we also reserve the right to adjust the contractual price if and insofar as the prices or price components charged by the plant commissioned with the delivery have changed between conclusion of the contract and delivery.

## III. Terms of payment

1. Unless agreed otherwise in writing, our invoices are due for payment on the 15th of the calendar month following the month of delivery; offsetting and retention rights are excluded.
2. All payments shall be effected on time without any deductions so that the amount is credited to our account on the due date. All payment transaction costs are for the buyer's account.
3. In the case of payment default, additional costs arising from bank borrowing will become due at interest rates of at least 6 % above the valid base rate of the European Central Bank (ECB).
4. In the event of non-compliance with these conditions, or of any circumstances liable to impair the buyer's creditworthiness coming to our knowledge after the conclusion of a contract, all our receivables shall become due immediately. In that event we also reserve the right to demand securities and to effect outstanding deliveries only against advance payment or provision of securities. Following fruitless expiry of an additional respite to be set exclusively by us, we shall be entitled to withdraw from the contract and to claim damages for non-fulfilment. We also reserve the right to prohibit resale of any goods delivered subject to reservation of title and to have these returned to us at the buyer's expense. In that event, we shall be entitled to compensation for any and all extra shipping and transport costs and other additional expenses incurred, as well as for any loss in the value of the goods.

## IV. Accounting transactions

We shall be entitled to offset any liabilities on our part, regardless of their legal grounds, against our receivables from the buyer. This shall also apply if cash payment has been agreed by one contractual party and another mode of payment or other kind of contractual performance by the other party. Where applicable, such agreements shall only cover the balance. Insofar as the liabilities and receivables are due on different dates, our receivables shall be due on the due date of our liability at the latest and be credited accordingly.

## V. Liability/force majeure

1. We accept liability for damages caused in connection with the performance of all deliveries and services to which we are under contractual obligation only insofar as we are notified of such damages without delay, and only to the extent to which such damages have been proved to be due to a fault or negligence on our part, and insofar as such damages are covered by our liability insurers. We will not accept any liability for financial loss.

2. Any events caused by force majeure shall entitle us to delay deliveries for the duration of the hindrance and a reasonable start-up period thereafter, or to withdraw from the contract in respect of any part not yet fulfilled. Any circumstances that significantly hinder our deliveries or make them impossible shall be deemed equal to force majeure, such as strikes or lock-outs. This also includes any disruption of operations not due to a fault or negligence on our part, such as damage to machinery or lack of material supplies, regardless of whether such circumstances occur at our own facility, the supplier plant or some other upstream supplier. The buyer shall be entitled to a declaration from us as to whether we withdraw from the contract or commit ourselves to fulfilling the contract within a reasonable period of time. If we fail to issue such a declaration, the buyer shall be entitled to withdraw from the contract.

## VI. Retention of title

1. All goods delivered by us remain our property until all amounts due to us including future receivables, regardless of their legal grounds, have been paid in full, even in the event of part payments having been made to cover certain specified receivables. In the case of revolving accounts, the retention of title serves as a security for the balance due to us. Any further processing shall be effected on our behalf as manufacturers in the sense of Article 950 BGB (German Civil Code), without placing us under any obligation. The processed goods shall be pledged as a security to us to the amount of the invoiced value of the goods subject to retention of title.
2. In the event of the goods subject to retention of title being processed by the buyer, or combined or mixed with other commodities not belonging to us, we shall be entitled to co-ownership of the new object at a ratio of the invoiced value of the goods subject to retention of title to the invoiced value of the other commodities, including expenses of processing at the time of the said goods being processed, combined or mixed. Our co-ownership rights arising from this are deemed to be goods subject to retention of title in the sense of these terms and conditions.
3. The buyer is authorized to resell goods that are our property only in the normal course of business, at his normal terms and conditions, and as long as he is not in default. He is only entitled and authorized to resell goods subject to retention of title on condition that the proceeds from such resale are ceded to us according to sections 4 and 5. He is not entitled to dispose of the goods subject to retention of title in any other way, including but not limited to pledging and transfer by way of security.
4. Any receivables due to the buyer from the resale of goods subject to retention of title shall be ceded to us in advance.
5. If, following processing, the goods subject to retention of title are further processed by the buyer either alone or together with other commodities not belonging to us, or if they are resold without further processing, the cession of the proceeds from such resale shall be limited to the invoiced value of the goods subject to retention of title.
6. If the goods subject to retention of title are used by the buyer to fulfil a contract for work and services or for work and materials, the receivables from such contract for work and services or work and materials shall be ceded to us in advance to the same extent as specified in sections 4 and 5.
7. The buyer is authorized to collect receivables from resale, which shall be subject to revocation by us at any time. Upon request, the buyer is under obligation to notify his customers of the cession of receivables, insofar as we do not notify these customers ourselves, and to furnish us with evidence of such notification, together with all information and documents necessary for collecting the receivables that have been ceded to us.
8. If the value of securities provided to us exceeds the total value of receivables due to us by more than 50 %, we shall upon the buyer's request be under obligation to release securities of our own choice to that extent.
9. The buyer is under obligation to notify us without delay of any third-party levy of execution or other impairment.

## VII. Illegal re-imports

Goods destined for territories outside the Common Market of the European Union must be exported. Any goods that have been exported into such territories may not be re-imported into the territory of the Common Market.

## VIII. Place of fulfilment and legal venue

The place of fulfilment for the buyer's duty of payment and the legal venue for both parties to the contract is the domicile of the vendor's registered office, Arnsberg/Germany. The place of fulfilment for all other contractual obligations is the plant or warehouse commissioned by us with the delivery or the place from which the goods are shipped by us. We also reserve the right to take legal action against the buyer at any other authorized legal venue or before any court having jurisdiction in Arnsberg.

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## B. Execution of deliveries

### I. Supplier plant

1. We shall be free to select the plant or warehouse to be commissioned with the delivery of goods on order.
2. We are under no obligation to disclose the name of the plant or warehouse selected by us to the buyer.
3. No legal entitlement exists to delivery of goods with origin in the European Union according to preference regulations under customs law, unless such origin has been expressly agreed.

### II. Delivery time

1. The delivery time begins with the date on which the order is accepted by us, but not before all details relating to the execution of the order are clarified. Any specification of delivery time on our part is approximate only and without obligation.
2. The delivery is deemed effected with on-time notification of readiness for shipment, even in the event of dispatch proving impossible without any fault or negligence on our part or on the part of the supplier plant.
3. Any delivery time fixed by contractual agreement will be extended by any period during which the buyer is in default in fulfilling his obligations under this or any other contract. This shall not prejudice our rights derived from the buyer's default in any way. In the event of us being in default ourselves, the buyer shall be obliged to set us a reasonable period of grace. After expiry of that period, he shall be entitled to withdraw from the contract insofar as the goods have not been notified ready for shipment prior to or on its expiry. No entitlement to replacement delivery shall exist in the event of absence or non-availability of material stocks.
4. The delivery commitment is subject to correct and punctual supply to ourselves. Exceeding delivery deadlines and schedules confirmed with reservation does not constitute a default.
5. In the case of contracts for on-call deliveries, call orders and corresponding itemized delivery schedules shall be issued to us for approximately constant quantities per month. If call orders or delivery schedules are not issued on time, we shall be entitled, after fruitless expiry of a period of grace, to set up the delivery schedule ourselves and deliver the goods, or to withdraw from the parts of the contract which are still outstanding, or to claim damages for non-fulfilment.
6. Part deliveries are permissible without restriction; every part delivery shall be considered as an independent transaction.
7. In the event of a contractual quantity being exceeded by individual call orders on the part of the buyer, we shall be entitled to deliver the excess quantity. We shall also be entitled to invoice the excess quantity at the daily price valid at the time of the call order.

### III. Call orders

1. Goods of which notification of readiness for shipment has been given as per contract must be called without delay; if this is not done, we have the right, after sending a reminder, to ship them at our discretion at the cost and risk of the purchaser or to store them as we see fit and bill them immediately.
2. For contracts providing for consecutive delivery, we are to be given calls and sorting instructions for approximately equal monthly quantities; if this is not done, we have the right to decide as we see fit.
3. If the total of the separate calls exceeds the contractual quantity, we have the right but no obligation to supply the additional quantity. We can charge the additional quantity at the prices valid at the time of call or, respectively, supply.
4. Differences up to + / - 10% of the total ordered quantity are admissible, unless other agreements have been arranged.

### IV. Quality standards

1. Our quality management system has been certified according to ISO 9001:2008. Any quality requirements on the part of the buyer going beyond this standard will not be accepted by us. In particular, we are under no obligation to collect data relating to quality or other system-relevant data from the Internet or from other publications.
2. We maintain adequate insurance cover against damages arising from product liability.
3. Deviations in dimensions and grades within the tolerances set by valid DIN and European standards and/or commercial usage are permissible. Printed materials from the Steel Information Centre, on which our deliveries are based, provide information about the state of the art in technical design as well as supplies of electrolytically or hot-dip galvanized strip and sheet, and coil-coated flat products; they also serve as the basis for assessment in the event of excess deliveries and/or under deliveries.
4. Weights and analyses are checked by our suppliers and constitute the basis for establishing our invoices. The total weight on delivery shall be the basis for invoicing, regardless of the means of transport. No warranty will be accepted for a multiple number of packages invoiced. Any deviations from the computed individual weights shall be distributed proportionately.
5. Grades and dimensions are determined by the DIN EN standards and/or material sheets valid on conclusion of the contract. Where no DIN EN standards or material sheets are in existence, the corresponding Euro standards shall apply, and in their absence commercial usage. Any references made to standards, corporate standards, material sheets or test certificates, or specifications relating to grades, dimensions, weights and applicability shall not constitute any warranty or assurance, nor shall declarations of conformity, manufacturer's declarations and relevant marks such as CE and GS be construed as warranties or assurances.

### V. Complaints / Warranty

1. Insofar as our suppliers accept a direct warranty for the end customer, the acceptance of any warranty on our part shall be excluded. All complaints are subject to acceptance by the relevant supplier plant in every case.
2. All complaints must be lodged by the buyer in writing within 14 days from arrival of the goods at the place of destination. Such complaints do not entitle the buyer to withhold any invoice amounts due.
3. Defects in part deliveries do not entitle the buyer to cancel the entire order or any other orders not yet delivered.
4. Defects that cannot be detected within the above-mentioned period even through careful examination must be notified immediately after detection, together with immediate discontinuation of any further processing. Any and all complaints are excluded three months after delivery.
5. We will have any goods recognized by us as faulty returned to us and will replace these with faultless goods. At our own discretion, we reserve the right to refund the reduction in value in lieu of a replacement delivery. Any complaints and warranties shall only cover such defects as are present or have developed directly on the goods delivered themselves. Compensation for any indirect or direct damages beyond such defects shall be excluded. We expressly point out that the buyer is not entitled to any compensation for processing costs. This is without prejudice to the provision under Section A. V.1.
6. All claims on the grounds of defective deliveries shall be null and void if the buyer fails to provide samples of the rejected goods immediately upon request or to give us an adequate opportunity to examine the defects.
7. Any goods replaced by us free of charge become our property. They must be protected against any and all change including but not limited to corrosion, and returned to us at our expense upon request with the defective parts clearly marked. Materials sent to us for examination can only be stored for a period of three months from the date of communicating the test results. If, on expiry of this period, we have not been instructed otherwise, the material will be scrapped.
8. Any claim on the grounds of a complaint becomes time-barred at the latest one month after the complaint has been rejected by us in writing.
9. The above-mentioned conditions also apply to deliveries of goods other than the contractual goods.
10. For goods sold as second choice according to agreement, especially according to the wording of our order confirmation (e.g. materials expressly designated as II a material), the buyer shall not be entitled to any claims on the grounds of quality defects, which are common practice in such cases. Any liability for material defects shall be excluded.

### VI. Shipment and transfer of risks

1. With the transfer of the goods to the forwarding agent or freight carrier, but at the latest on leaving the premises of the plant or warehouse, all risks shall pass to the buyer. This also applies in the case of seizures or free domicile deliveries effected by us on our own or third-party vehicles.
2. Goods notified as ready for shipment must be collected without delay, otherwise we shall be entitled to store them at our own discretion at the buyer's risk and expense and invoice them as delivered. This also applies in the case of dispatch becoming impossible.
3. If the dispatch or transport of the goods is delayed for any reason attributable to the buyer, we shall be entitled to store the goods at our reasonable discretion at the buyer's risk and expense. This shall be without prejudice to the legal provisions concerning acceptance default and our entitlement to establish an invoice.
4. On principle, all goods are delivered without packaging and special protection. Any external corrosion, soiling or surface impairments in transit do not constitute material defects. Any packaging, protective materials and transport equipment will not be taken back unless otherwise agreed by a separate contractual provision.
5. In the event of damage in transit, the buyer is under obligation to have the damage inspected by the authorities responsible without delay.

## C. Other provisions

- I. Any and all contractual claims by reason of or in connection with the delivery of goods shall become time-barred one year after delivery of the goods. This period also applies to goods used in building construction according to their normal manner of use, which have caused defects in a building, unless expressly agreed otherwise.
- II. All legal agreements between us and the buyer are subject to German law, including but not limited to BGB/HGB (German Civil Code/German Commercial Code). No other kind of legal provisions, such as the UN Convention dated 11 April 1980, shall be applicable.
- III. The invalidity of one or several of these terms and conditions shall have no effect on the validity of the remainder of these terms and conditions.

Arnsberg, October 2012

