

# General Terms and Conditions of Supply and Payment

## I. Sphere of application

1. These General Terms and Conditions of Supply and Payment apply to all contracts - including future contracts - for the supply of goods and services by Scholz Edelstahl GmbH, including contracts for work and services. These terms and conditions are deemed to be accepted at the latest on acceptance of the goods or service. Any statements to the contrary by the customer making reference to their own terms and conditions of business or purchase are hereby expressly opposed. The purchaser's terms and conditions of purchase shall not be recognised even if we do not expressly oppose them again on receipt by us.

2. Our quotations are without obligation and non-binding. Any verbal agreements and assurances made by our employees are not binding until confirmed by us in writing. The same applies to additions, changes or collateral agreements.

3. In cases of doubt, the interpretation of commercial terms shall be based on the Incoterms 2000.

4. All information such as dimensions, weights, drawings, descriptions, assembly sketches and drawings in pattern books, price lists and other printed materials are only approximations, although determined as accurately as possible, and to that extent are not binding on us. The same applies to details of the factories. Models and drawings remain our property.

5. The "Purchaser" for the purposes of these terms and conditions is also the "Orderer" for the purposes of contracts for work and services.

## II. Pricing

1. Prices are given ex works or ex warehouse, excluding carriage and Value Added Tax.

2. If tax charges or other external costs, that are included in the agreed price, change later than four weeks after conclusion of the contract or if new charges of this kind arise, we shall be entitled to modify our prices accordingly.

3. We reserve the right to increase the agreed price in respect of goods not yet delivered if circumstances arise in connection with a change in the supply of raw materials and/or the economy, which make the manufacture and/or the purchase of the relevant products substantially more expensive in comparison with the time the price was agreed. In this case the customer may cancel any orders affected by the price increase within four weeks of the change being notified.

## III. Payment and settlement of accounts

1. Payment must be made, without deduction of any discounts, in such a way that we have access to the amount on the due date. The cost of payment transactions shall be borne by the Purchaser. The Purchaser shall only be entitled to a right of retention or right of set-off to the extent that its counterclaims are uncontested or finally and conclusively determined.

2. If the payment period is exceeded or in cases of arrears, the interest rates quoted in our price list shall apply: in the absence of any, we shall charge interest at a rate of 5 percentage points above the base interest rate in accordance with Section 247 German Civil Code, or any interest rate that replaces the base rate in accordance with a legal regulation, unless the Purchaser can prove lower damages. If a consumer is not party to the legal transaction, the interest rate for payment claims is 8 percentage points over the base interest rate as provided by Section § 247 German Civil Code.

3. In cases where a payment period is agreed for the calculation of this interest, as for any interest calculations, the effective date is the day of delivery. In connection with payments, every order is considered a separate transaction.

4. On the basis of the authorisation granted us by the companies of our group (Section 18 Public Companies Act), we are entitled to offset all claims against the Purchaser, on whatever legal grounds, to which we or any one of these companies are entitled. This also applies if payment in cash by one party and in the form of bills of exchange or other performance by the other party has been agreed by way of provisional performance. Where appropriate, these agreements only relate to the balance. If the claims are due at different times, our claims for this purpose are due at the latest on the due date of our obligation and are settled at value. Regardless of any Purchaser's conditions to the contrary, we are entitled to offset payments first against older debts. If costs or interest have already arisen, we shall be entitled to offset the payments first against the costs, then against the interest and finally against the principal amount.

5. Payments in the form of bills of exchange require our express consent in advance. All fees in respect of bills of exchange shall be borne by the Purchaser. The acceptance of bills of exchange does not mean deferral of the payment in respect of which they are given.

6. Cash payments to us are only effective if they are made to persons with written authorisation to collect.

7. We are entitled to assign claims arising out of agreed business relations.

8. If the Purchaser gets into payment arrears or does not honour a bill of exchange on the due date, or if other circumstances arise that indicate a substantial deterioration in the assets of the Purchaser and threaten our claim to payment, we shall be entitled to call in all our claims relating to the same legal relationship, and to demand security or prepayment in respect of any other outstanding supplies of goods or services arising from the business relationship, unless the Purchaser has already provided sufficient security.

9. This does not affect the legal regulations concerning payment arrears.

## IV. Completion of deliveries; delivery periods and deadlines

1. Our delivery obligation is subject to correct and timely delivery to us by our own suppliers, unless we are to blame for the incorrect or delayed delivery.

2. Stated delivery times are approximate. Delivery periods begin on the date of our order confirmation and apply only subject to timely clarification of all details of the order and timely fulfilment by the Purchaser of all the Purchaser's obligations, such as the provision of all official certifications, the provision of letters of credit and warranties, or the making of any downpayments.

3. If the Purchaser or its agents collects goods not destined for the area of the Common Market, the Purchaser must procure for us the export certificate required for tax purposes. If not, the Purchaser must pay us an amount equal to the turnover tax amount on the invoice total applicable in the case of deliveries within home territory.

4. The relevant date for the delivery deadlines or delivery periods is the date of dispatch ex works or ex warehouse. If the goods cannot be dispatched on time through no fault of ours, notification of readiness for dispatch is sufficient for compliance with the foregoing.

5. Instances of force majeure shall entitle us to delay the delivery for the duration of the obstacle and a reasonable restart period. This also applies if such events arise during an existing delay. Force majeure includes currency, trade policy and other sovereign measures, strikes, lockouts, production stoppages not caused by us (e.g. fire, machinery or roller breakdown, non-availability of raw materials or power cuts), traffic obstructions, delays in import/customs procedures and any other circumstances whatsoever for which we are not liable, which substantially hinder us or prevent us from carrying out our deliveries. It is irrelevant whether these circumstances arise at our premises, with the supplier or manufacturer or with an upstream supplier. If the aforementioned events make execution of the contract unreasonable for one of the parties to the contract, in particular if execution of substantial parts of the contract is delayed by more than 6 months, this party may declare the contract null and void.

6. The means of transport and type of dispatch shall be chosen by us.

## V. Reservation of proprietary rights

1. All goods supplied remain our property (reserved goods) until all claims have been fulfilled, including in particular claims in respect of balances owing to us in connection with the business relationship. This also applies to future and conditional claims, e.g. from acceptors' bills of exchange and also if payments are made in respect of specifically designated claims. Our claims also include the claims of other companies in our group, described more specifically under III.4.

2. Processing and working on the reserved goods shall take place for us as manufacturer as provided by Section 950 German Civil Code, without putting us under any obligation. The worked and processed goods are deemed reserved goods as provided by 1. above. In the case of processing, combining and mixing reserved goods with other goods by the Purchaser, we shall have a share of the ownership in the new item in the ratio of the invoice value of the reserved goods to the invoice value of the other goods. If our ownership is extinguished by combination or mixing, the Purchaser hereby assigns to us the ownership rights to which it is entitled in the new stock or item in the scope of the invoice value of the reserved goods, and shall hold it free of charge on our behalf. Our co-ownership rights are deemed reserved goods as provided by 1. above.

3. The Purchaser may only sell the reserved goods in the normal course of business to its normal business contacts, and provided the Purchaser is not in arrears, provided that the claims from onward sales in accordance with 3. to 6. above are assigned to us. The purchaser is not entitled to make any other use of the reserved goods.

4. Claims arising from onward sales of the reserved goods are hereby assigned to us. They provide security in the same scope as the reserved goods. If the reserved goods are sold by the Purchaser together with other goods not sold by us, the claim from the onward sale will be assigned to us in the ratio of the invoice value of the reserved goods to the invoice value of the other goods. When goods are sold of which we have co-ownership in accordance with 2., a part will be assigned to us in proportion with our co-ownership share. If the reserved goods are used by the Purchaser to fulfil a contract for work or services, the claim arising from the contract for work or services shall be assigned to us in advance in the same scope.

5. The Purchaser is entitled to recover claims from the onward sale. This authority to collect shall be extinguished on cancellation by us, but immediately on payment arrears, failure to honour a bill of exchange or application to initiate bankruptcy, composition or enforcement proceedings. We will only make use of our right of cancellation if we become aware of circumstances that will give rise to a substantial deterioration in the assets of the Purchaser and threaten our claim to payment. The Purchaser is obliged, at our request, to inform its customers immediately of the assignment to us, and to give us the documents necessary for collection.

Assignment of claims from onward sales is not permitted unless it is an assignment in the course of genuine factoring, of which we are notified and where the factoring proceeds are greater than the value of our secured claim. Our claim becomes due immediately the factoring proceeds are credited.

6. The Purchaser must inform us immediately of any seizure or other encroachment by a third party. The Purchaser bears all costs incurred in cancelling the intervention or in respect of the return transport of the reserved goods, provided they have not been reimbursed by a third party.

7. If the Purchaser gets into payment arrears or does not honour a bill of exchange on the due date, we shall be entitled to take back the reserved goods and where necessary enter the Purchaser's premises in order to do so. The same applies if other circumstances arise that indicate a substantial deterioration in the assets of the Purchaser and threaten our claim to payment. Taking back does not mean withdrawal from the contract.

8. If the total invoice value of the existing securities exceeds the secured claims including incidental claims (interest, costs, etc.) by more than 2%, we shall be obliged, at the Purchaser's request, to release securities of our choice to the appropriate value.

9. In the case of definitive taking back, we are entitled, on issuing the credit, to make a fixed deduction of 25% without further proof. We reserve the right to claim further compensation.

## VI. Qualities, dimensions and weights

1. Qualities and dimensions are determined in accordance with the DIN standards and material information sheets. If there are no relevant DIN standards or material information sheets, the relevant Euro standards apply, and in the absence of these, the customary practice in the trade. Reference to standards, material information sheets or works test certificates and information on qualities, dimensions, weights and applications are not given as assurances, nor declarations of conformity, manufacturers' declarations or the corresponding symbols such as CE and GS.

2. For the weights we rely on the weighing undertaken by our upstream suppliers. Proof of weight is provided by producing the weighing slip. So far as legally permissible, weights may be determined without weighing in accordance with DIN. This does not affect the additions and deductions usual in the steel industry in the Federal Republic of Germany (trade weights). The number of items, packages etc. stated in the dispatch note are non-binding in the case of goods calculated by weight. Insofar as individual weighing is undertaken, in exceptional cases, the overall weight of the consignment applies. Differences between calculated individual weights are distributed proportionally.

## VII. Acceptance

1. If an acceptance inspection is agreed, this may only take place at the supplier's works or our warehouse immediately on notification of readiness for inspection. The staff costs for the inspection are borne by the Purchaser, the material inspection costs shall be invoiced to the Purchaser in accordance with our current price list or that of the supplier's works.

2. If the inspection is not undertaken, is incomplete or not on time, and we are not at fault, we shall be entitled to dispatch the goods without inspection, or have them stored at the cost and risk of the Purchaser and invoice the Purchaser accordingly.

## VIII. Dispatch, transfer of risk, packaging, partial delivery, ongoing deliveries

1. We determine the delivery route, means of transport, freight forwarding company and carrier.

2. Goods notified as ready for dispatch in accordance with the contract must be called down immediately, otherwise we shall be entitled to dispatch them as we see fit, after giving due warning, at the expense and risk of the Purchaser, or store them as we see fit and invoice for this immediately.

3. If transportation by the prescribed route or to the prescribed destination in the prescribed time is not possible through no fault of ours, we shall be entitled to deliver by a different route or to a different destination; any costs arising shall be borne by the Purchaser. The Purchaser shall be given the opportunity to comment in advance.

4. On handing over the goods to a freight forwarding company or carrier, but at the latest on leaving the warehouse or supplier's works, the risk, including that of seizure of the goods, is transferred to the Purchaser in the case of all transactions, including free and post-free deliveries. We will only take care of insurance if asked to do so by and at the expense of the Purchaser.

5. The goods will be supplied without packaging or rust protection. We will supply in packaging if this is the usual practice in the trade. We will take care of packaging, protective devices, or transport auxiliary materials in line with our experience at the expense of the Seller. We will take them back at our warehouse. We will not bear the Purchaser's costs for return transport or the Purchaser's own disposal of the packaging.

6. We are entitled to make partial deliveries within a reasonable scope. Excess deliveries or short deliveries of the agreed quantities are allowed within the scope usual in the sector.

7. In the case of agreements involving ongoing deliveries, call-downs and batch distribution must be given for roughly similar monthly quantities; otherwise we shall be entitled to determine the conditions ourselves according to equitable discretion.

8. If the total of the individual call-downs exceed the contractual quantity, we shall be entitled to deliver the excess quantity, but not obliged to do so. We may invoice for the excess quantity at the prices valid at the time of call-down or delivery.

## IX. Notification of defects, warranty and liability

We offer warranty in respect of defects in the goods and the lack of assured attributes only in accordance with the following regulations:

1. Notification of defects in the goods must be given in writing immediately, and no later than seven days after delivery. Defects that could not be discovered within this period even on careful inspection must - subject to immediate cessation of any process or work on the goods - be notified in writing immediately following their discovery, no later than the expiry of the warranty period.

2. Once an inspection of the goods has been carried out by the Purchaser as agreed, no defects that could have been discovered given the agreed inspection type may be notified.

3. In the case of justified, timely notification of defects, we will take back the disputed goods and supply defect-free goods in their place; we are also entitled to carry out repairs instead of this. If repair or replacement fails, the Purchaser may demand cancellation of the contract or a reduction in payment, subject to the legal conditions. The Purchaser may not demand cancellation of the contract if building works are covered by the warranty or if the defect only has a negligible effect on the value or suitability of a work provided by us.

4. If the Purchaser does not immediately give us the opportunity to convince ourselves of the defect, in particular if the Purchaser does not make the disputed goods or samples available to us within 7 days, all warranty claims shall be extinguished.

5. In the case of goods sold as declassified materials - e.g. IIA materials - the Purchaser shall not be entitled to any warranty claims regarding the errors stated or others he may normally expect in this case.

6. We offer a warranty for repairs and replacements in the same scope as for the original delivery or performance.

7. Provided nothing to the contrary is provided below (8. and 9.), the Purchaser is not entitled to any further claims - on whatever legal grounds, in particular on the basis of impossibility, delay, fault on conclusion of the contract or tort. In the case of breaches of contract beyond the scope of the warranty and in the case of consequential damage arising from defects, we, our legal representatives, agents and assistants are only liable for damages to the Purchaser's assets not arising from injury to the life, limb or health of the customer, if the breach of contract causing the damages or the consequential damage was caused by negligence or gross negligence.

8. The foregoing liability disclaimer does not apply if the damages were caused by negligence or gross negligence. It also does not apply if the Purchaser claims compensation for non-fulfilment in respect of the absence of an assured attribute.

9. If we are in breach of an essential contractual obligation, liability is limited to the damages typical under a contract of this kind; furthermore it is excluded in the circumstances set out in 7. above.

10. Any exclusion or limitation of our liability also extends to the liability of our senior employees and agents.

11. Our liability for the absence of assured attributes is in accordance with Section X.

## X. Compensation and limitation

1. Liability to pay compensation beyond that provided for in IX. 7. to 9. is excluded, regardless of the legal nature of the claim being made.

2. The provision of 1. does not apply to claims in accordance with Sections §§ 1 and 4 German Product Liability Act. Insofar as the limitation of liability in accordance with IX. 7. does not apply to product liability claims in accordance with Section 823 German Civil Code, our liability is limited to the losses under the insurance policy. If this does not apply, or does not apply in full, we are liable up to the amount covered.

## XI. Special conditions for EGKS products

Our Purchasers are obliged to abide by the provisions of Art. 2 to 7 of Decision No. 30/53 and by Decision Nos. 31/53 and 37/54 of the European Commission, in the current versions, in respect of their own price lists and terms and conditions of sale for the onward sale of unmodified goods, with the exception of sales from the warehouse.

## XII. Place of performance, legal venue and applicable law

1. The place of performance for our deliveries is, in the case of ex works deliveries, the supplier's works, and in the case of other deliveries, our warehouse. For merchants the legal venue is Essingen. We may also bring action against the Purchaser at the Purchaser's legal venue.

2. The place of performance and exclusive legal venue for all disputes between merchants arising directly or indirectly from this contractual relationship is Essingen. (Depending on sphere of responsibility: Local Court of Aalen, District Court of Ellwangen).

## XIII. Closing provisions

Should a provision of these general terms and conditions of business or any other connected agreement be or become unworkable, this shall not affect the validity of any of the other provisions or agreements. The unworkable provision must be replaced with one which most closely approximates to the economic intent of the original provision.