

General Terms and Conditions of Sale and Payment DELTA-TRADING GmbH Metallhandel

I. General Information and applicability

1. These General Terms and Conditions of Sale and Payment shall apply to all our contracts, deliveries and other services unless they are amended or excluded with our express written consent. These terms and conditions shall be deemed accepted at the latest upon receipt of our material. The purchaser's terms and conditions shall not be binding on us even if we do not expressly object to them again.

II. Offers, placing of orders

1. Our offers are non-binding, contract conclusions and other agreements only become binding with our written confirmation.
2. Verbal collateral agreements require our written confirmation in order to be effective.
3. In case of doubt, the Incoterms in their latest version shall be decisive for the interpretation of trade clauses.

III. Terms of payment

1. Payment shall be made by the 15th of the month following the delivery ex warehouse or ex works or the indicated completion without discount deduction in such a way that the amount required for settlement of the invoice is available to us at the latest on the due date. The costs of payment transactions shall be borne by the purchaser.
2. We accept cheques and rediscountable and properly taxed bills of exchange on account of payment. Bills of exchange only if this has been expressly agreed. Credit notes for bills of exchange and cheques shall be issued subject to receipt of the outlays with value date of the day on which we can dispose of the equivalent value.
3. In the event of default in payment on the part of the Buyer, we shall be entitled to charge interest in the amount of the respective bank rates for overdraft facilities, but at least interest in the amount of 5 % above the discount rate of the Deutsche Bundesbank, plus value added tax in each case. We reserve the right to assert further claims for damages caused by default.
4. Irrespective of the term of any accepted and credited bills of exchange, all our claims shall become due immediately if the terms of payment are not complied with or circumstances become known to us which, according to our dutiful commercial discretion, are suitable to reduce the creditworthiness of the purchaser. We shall then also be entitled, without prejudice to far-reaching statutory rights, to execute outstanding deliveries only against advance payment or to demand securities acceptable to us or to withdraw from the contract after a reasonable period of grace or to demand damages for non-performance.
5. We are entitled to set off our claims against those of the buyer, irrespective of the legal basis, even if the mutual claims are due on different dates.
6. The buyer is only entitled to a right of retention and a right of set-off to the extent that his counterclaims are undisputed or legally established. The withholding of payments or the offsetting due to any counterclaims of the buyer disputed by us are not admissible.
7. An agreed discount always refers only to the invoice value excluding freight and other additional costs and presupposes the complete settlement of all due liabilities of the buyer at the time of the discount. The discount periods shall commence from the invoice date.

IV. Delivery period, delivery dates

1. The delivery period shall commence on the day on which we accept the order, but not before all details of execution have been fully clarified. The delivery period and delivery date shall be deemed to have been complied with upon timely notification of readiness for dispatch if dispatch is impossible through no fault of our own. Agreed delivery periods shall only be regarded as approximate.
2. If we are in default, the buyer must grant us a reasonable grace period. After expiry of this period of grace, he may withdraw from the contract to the extent that the goods have not been notified as ready for dispatch by the end of the period.
3. Claims for damages, for whatever legal reason, for non-compliance with the delivery period or delivery date are excluded.
4. The buyer may not reject partial deliveries intended by us. Each partial delivery shall be deemed an independent transaction.

V. Prices

1. The prices are net cash plus freight ex works or ex warehouse and value added tax, unless otherwise agreed.
In the case of deliveries ex works, if we have not expressly promised a fixed price, we can determine the prices in accordance with the conditions of the price list of the respective supplying plant valid on the day of delivery. All additional charges, public levies and any new taxes, freight charges or increases thereof which may directly or indirectly affect the delivery and make it more expensive shall be borne by the purchaser, unless mandatory statutory provisions to the contrary apply.
2. Goods delivered but not defective shall only be taken back with our express consent.

VI. Retention of title

1. All goods remain our property (reserved goods) until all claims have been settled, irrespective of the legal basis, even if payments have been made for specially designated claims. In the case of a current account, the reserved property shall be deemed security for our balance claim. Processing and treatment shall be carried out for us to the exclusion of the acquisition of ownership in accordance with § 950 BGB (German Civil Code) without any obligation on our part. The processed goods serve as our security in the amount of the invoice value of the reserved goods.
2. In the event of processing with other goods not belonging to us by the purchaser, we shall be entitled to co-ownership of the manufactured item in the proportion in which they relate to each other: Our invoice value of the goods subject to retention of title used for the manufactured item to the sum of all invoice values of all goods used in the manufacture, including the expenses for their processing. Otherwise, the same shall apply to the new item resulting from

the processing as to the reserved goods. It shall be deemed to be reserved goods within the meaning of these terms and conditions.

3. The buyer may sell our property only in the ordinary course of business, at his normal terms and conditions and as long as he is not in default. He is only entitled and authorised to resell the reserved goods subject to the proviso that the claim from the resale is transferred to us in accordance with paragraphs 4 to 7. He shall not be entitled to dispose of the reserved goods in any other way.
4. The buyer's claims arising from the resale of the reserved goods are hereby assigned to us, regardless of whether the reserved goods are sold without or after processing and whether they are sold to one or more buyers.
5. In the event that the reserved goods are sold by the purchaser together with other goods not belonging to us, the assignment of the claim from the resale shall only apply to the amount of the invoice value of the reserved goods sold in each case.
6. If the reserved goods are resold after processing, in particular after processing with other goods not belonging to us, the assignment shall only apply to the amount of our co-ownership share in the sold item.
7. If the reserved goods are used by the purchaser to fulfil a contract for work and services or a contract for work and materials, the claim arising from the contract for work and materials or contract for work and materials shall be assigned to us in advance to the same extent as stipulated in paragraphs 4 to 6.
8. The purchaser is entitled to collect claims from the resale until our revocation, which is permissible at any time, is made; however, we shall only make use of the right of revocation if it becomes apparent after conclusion of the contract that our claim for payment from this or other contracts with the purchaser is at risk due to the purchaser's lack of ability to pay. In no case shall the purchaser be entitled to assign the claim. At our request he shall be obliged to inform his customers of the assignment to us and to provide us with the information and documents required for collection.
9. If the purchaser is in default of payment or if he does not honour a bill of exchange when due, we shall be entitled to take back the reserved goods and to enter the purchaser's premises for this purpose if necessary. The same shall apply if it becomes apparent after conclusion of the contract that our payment claim from this or other contracts with the purchaser is at risk due to the purchaser's lack of ability to pay. Taking back the goods does not constitute withdrawal from the contract. The provisions of the Insolvency Code shall remain unaffected.
10. If the value of the securities existing for us exceeds our claims by more than 20% in total, we are obliged to release securities of our choice at the buyer's request.
11. The purchaser must inform us immediately of any seizure or other impairment by third parties. The buyer shall bear all costs which must be incurred for the removal of the access or for the return transport of the reserved goods unless they are reimbursed by third parties.

VII. Grades, dimensions and weights

1. The quality and dimensions of the material supplied by us shall be determined exclusively in accordance with the DIN standards applicable at the time the contract is concluded, unless the use of other material standards has been expressly agreed. If no DIN standards exist, the trade usage shall apply, unless the application of certain Euro standards or steel-iron material sheets is expressly agreed. References to standards, material data sheets or works test certificates as well as information on qualities, dimensions, weights and usability are not assurances or guarantees, the same applies to declarations of conformity, manufacturer's declarations and corresponding markings such as CE and GS.
2. Insofar as it is customary in trade that the weight determined by the weighing master at the factory shall be decisive for goods invoiced by weight, this shall apply. The proof of weight is valid under exclusion of other means of proof as provided with presentation of the weighing slip. We can also theoretically determine weights without weighing according to the length or surface of the product, whereby we can determine the dimensions according to recognised statistical methods. We shall also be entitled to increase the theoretical weight by a customary surcharge (commercial weight) to compensate for rolling and thickness tolerances. Quantities, bundles, etc. stated in the dispatch note are non-binding for goods calculated by weight. Unless individual weighing is usually carried out, the total weight of the consignment shall apply in each case. Differences from the calculated individual weights shall be distributed proportionally among these. The determined weight shall be rounded up to full kg.

VIII. Acceptances

1. If acceptance has been agreed, it can only take place in the supplying plant or our warehouse immediately after notification of readiness for acceptance. The personal acceptance costs shall be borne by the purchaser; the material acceptance costs shall be charged to the purchaser in accordance with our price list or the price list of the supplying plant.
2. If acceptance does not take place through no fault of our own, or does not take place on time or in full, we shall be entitled to dispatch the goods without acceptance or to store them at the expense and risk of the purchaser and to charge him for them.

IX. Call-off orders / continuous deliveries

1. In the case of contracts with continuous delivery and unless otherwise agreed in writing, we must be given call-offs and classifications for approximately equal monthly quantities; otherwise we shall be entitled to carry out the provisions ourselves at our reasonable discretion.
2. If the individual call-offs exceed the total contractual quantity, we shall be entitled, but not obliged, to deliver the additional quantity. We may invoice the additional quantity at the prices valid at the time of the call-off or delivery.

X. Notice of defects and warranty

We shall be liable as follows for defects, which also include the absence of warranted characteristics:

1. Defects - including the absence of warranted characteristics - must be reported

in writing immediately after discovery and immediate cessation of any processing. Notification of obvious defects shall be excluded 14 days after receipt of the goods at the place of destination. Defects which cannot be discovered within this period even after careful inspection are to be notified immediately after discovery, with cessation of treatment and processing, but no later than 3 months after receipt of the goods.

2. Defective goods which within the warranty period are proven to have been unusable or considerably impaired in their usability as a result of a circumstance occurring prior to the transfer of risk shall, at our discretion, either be taken back and replaced by faultless goods (subsequent performance) or the reduced value shall be refunded. In the event of failure or refusal of subsequent performance, the purchaser may withdraw from the contract or reduce the purchase price after the unsuccessful expiry of a reasonable period. If the defect is not substantial or if the goods have already been processed or redesigned, he shall only be entitled to the right to reduce the purchase price.

3. We shall only assume expenses in connection with subsequent performance if they are reasonable in the individual case, in particular in relation to the purchase price of the goods, but in no case more than 150 % of the value of the goods. We shall not assume any expenses arising from the fact that the sold goods have been taken to a place other than the agreed place of performance, unless this corresponds to their contractual use.

4. If the buyer does not give us the opportunity to convince ourselves of the defect, in particular if he does not immediately make the rejected goods or samples thereof available upon request, all warranty claims shall lapse.

5. We may refuse to remedy defects as long as the Buyer fails to fulfil his obligations to us to the extent permitted by law.

6. After an agreed acceptance of the goods by the buyer has been carried out, the notification of defects that can be detected during the agreed type of acceptance shall be excluded. If a defect has remained unknown to the purchaser as a result of negligence, he may only assert rights in respect of this defect if we have fraudulently concealed the defect or assumed a guarantee for the quality of the item.

7. In the case of goods which have been sold as declassified material - e.g. so-called II-a material - the purchaser is not entitled to any warranty rights.

8. Further claims of the buyer, in particular a claim for compensation for damages which have not occurred to the delivery item itself, are excluded to the extent permitted by law.

9. Claims for defects shall become statute-barred at the latest one month after written rejection of the notice of defect by us.

XI. General limitation of liability

1. Claims not expressly granted in these terms and conditions, in particular claims for damages arising from impossibility of performance, non-delivery, default, breach of contractual ancillary obligations, culpa in contrahendo, tort - even insofar as such claims are connected with the purchaser's warranty rights - shall be excluded to the extent permitted by law.

2. All claims against us, for whatever legal reason, shall become statute-barred at the latest six months after the transfer of risk to the purchaser.

XII. Force majeure

Events of force majeure entitle us to postpone delivery for the duration of the hindrance and a reasonable start-up period or to withdraw from the contract because of the part not yet fulfilled. Circumstances - unforeseen obstacles - which influence, complicate or make impossible the delivery of the goods, irrespective of whether they occur at our premises or at those of a subcontractor, shall be deemed equivalent to force majeure. The purchaser can demand a declaration from us as to whether we wish to withdraw from the contract or deliver within a reasonable period of time. If we do not make such a declaration, the purchaser may withdraw from the contract.

XIII. Shipping and transfer of risk

1. The goods are delivered unpacked and not protected against rust. The risk - including confiscation - shall pass to the buyer in all cases - e.g. also in the case of fob and cif transactions - when the goods are handed over to the forwarding agent or carrier, but at the latest when they leave the factory. We shall be free to choose the means of transport and protection, which shall be charged separately, as well as the covered and special wagons, and the route of dispatch, whereby any liability - also for damaging weather influences on the goods - shall be excluded. Goods reported ready for dispatch must be called off immediately, otherwise or if dispatch is impossible, we are entitled to store them at our discretion at the expense and risk of the purchaser and to invoice them as delivered ex works. If truck collection has been agreed and the material is not collected within 4 days of notification of readiness for dispatch, we shall be entitled to ship the goods ourselves at our discretion. Delivery is always ex works. We are entitled to make partial deliveries to a reasonable extent. Excess and short deliveries of the agreed quantity customary in the industry are permissible.

XIV. Place of performance and jurisdiction

1. Place of performance for our deliveries and place of jurisdiction is, as far as legally permissible, the registered office of the seller.

2. The law of the Federal Republic of Germany shall apply between the contracting parties.

01 May 2019