

General Terms & Conditions of Sale of VOSTA-Stahlhandel GmbH, Borner Straße 54, D-41379 Brüggen

I. Scope

1. These General Terms & Conditions of Sale apply to all – current and future – contracts with businessmen and companies, legal entities under public law and public-law trusts having regard to supplies and other services including contracts for work and labour and the supply of fungible goods. Purchasing conditions of the purchaser shall not be recognized even if we do not expressly reject them on receipt.
2. Our Terms and Conditions of Sale apply exclusively. We do not acknowledge any conditions of the Purchaser that conflict with or deviate from our Terms and Conditions of Sale, even if we perform the contract without expressing any reservations.
3. Our offers are non-binding. Verbal agreements, undertakings, assurances and guarantees of our staff in connection with the conclusion of a contract shall become binding only on issue of a written confirmation by us.
4. In cases of doubt, commercial clauses shall be interpreted in accordance with the latest version of the INCOTERMS.
5. All details such as dimensions, weights, illustrations, descriptions, assembly sketches and drawings in pattern books, price lists and other printed matter are provided on an approximate basis only but shall be as accurate as possible and to this extent shall not be binding for us. The same shall apply to details provided by the supplier plants. Models and drawings shall remain our property.
6. "Purchaser" in the meaning of these Terms and Conditions is also referred to as "Buyer" in contracts for work and labour.
7. The signed order placed by the Purchaser shall be deemed accepted by us, if confirmed by us in writing, orally or by telephone, or if we do not reject acceptance within a period of two weeks. This period shall be deemed to be met if the post mark attached to the letter of rejection shows a date of despatch within this period.

II. Price

1. Prices are understood to be ex works or ex stocks plus freight and value-added tax.
2. Insofar as not otherwise agreed, prices and terms shall be applicable as contained in the price list effective at the time of formation of the contract. Unless otherwise agreed, our prices apply net "ex works" and include normal packaging. Additional expenses incurred, e.g. for taking out insurance. If we undertake the delivery, the installation or the setting up and insofar as not otherwise agreed in written, costs thereby incurred, are at the expense of the Purchaser in addition to the agreed purchase price.
3. If taxes or other external costs contained in the agreed price change or are newly introduced more than four weeks after conclusion of the contract, we shall be entitled to amend the price accordingly.
4. We reserve the right to increase the agreed price for volumes not yet delivered if circumstances occur due to a change in the raw materials and/or economic situation which significantly increase the cost of producing and/or purchasing the product concerned from the time the prices were agreed. In this case the Purchaser may cancel the orders concerned within four weeks of notification of the price increase.

III. Payment and off-setting

1. Unless otherwise agreed or otherwise stated in our invoices, the purchase price shall be payable without discount in such a way that we can dispose of the amount on the due date. The Purchaser shall bear the costs of the payment transaction. The Purchaser may offset payment only against uncontested or legally established receivables; the same shall apply to the exercise of rights of retention.
2. If the term of payment is exceeded or in the event of default of payment, we shall charge interest in the amount of 8 percentage points above the basic interest rate of the European Central Bank unless higher interest rates are agreed. The claim of additional damages, in particular additional expenses in connection with modifications to exchange rates and exchange rate guarantees shall be reserved.
3. Purchase prices are payable immediately on receipt of the goods, however, no later than 14 days from the date of invoice in cash or by bank transfer. The Purchaser will be in default of payment at the latest 7 days after payment has become due regardless of whether we have sent a reminder. They are deemed to have been paid with effect from the date on which the amount is at our free disposal. The deduction of cash discount requires a special written agreement. Other forms of payment require a separate written agreement. The purchaser pays the costs incurred by both parties for such forms of payment.
4. If it is discerned following contract conclusion that our payment claim is put at risk due to non-performance by the Purchaser, we shall be entitled to make use of the rights on the basis of § 321 BGB (German Civil Code) (objection of uncertainty). In cases of failure to pay a significant sum within the agreed payment term or if a bill is dishonoured at maturity or if following contract conclusion any other circumstances occur which suggest that the financial situation of the Purchaser has substantially deteriorated and which put our pecuniary claim at risk, we shall then also be entitled to demand immediate payment of all unexpired claims arising out of the ongoing business relationship with the Purchaser, as well as we shall be authorized to make any outstanding deliveries arising out of the ongoing business relationship with provision of sufficient security or only with payment in advance, unless the Purchaser provides sufficient security.
5. All agreed discounts shall relate only to the invoice value excluding freight and are conditional on the full payment of all due liabilities of the Purchaser at the time of discounting. Unless otherwise agreed, the discount terms shall begin from the invoice date.
6. The statutory provisions concerning default of payment remain unaffected.

IV. Execution of deliveries, delivery periods and deadlines

1. Our supply obligation shall be conditional upon the correct and punctual supply of goods to us unless we are responsible for the incorrect or delayed supply or non-delivery of goods to us.
2. Details of agreed delivery periods shall be approximate. Delivery periods shall begin on the date of our order confirmation and shall only apply subject to the timely clarification of all details of the order and punctual fulfilment of all obligations of the Purchaser, such as the obtaining of all official certificates, the issue of letters of credit and guarantees or the payment of advances.
3. If the Purchaser or his representative collects goods or transports or sends them to a country outside the EU, the Purchaser shall furnish us with the export certificate required under tax law. If this certificate is not provided, the Purchaser shall pay the sales tax on the invoiced amount applying in the Federal Republic of Germany.
4. Delivery periods and deadlines shall refer to the time of dispatch ex works or ex stocks. If the goods cannot be dispatched on time for reasons beyond our control, delivery periods and deadlines shall be deemed to have been met on notification of readiness for shipment.
5. Events of force majeure shall entitle us to defer delivery for the duration of the hindrance plus a reasonable start-up period. The same shall apply when said events occur during an existing delay. Force majeure is deemed to include currency, trade policy and other sovereign measures, strikes, lockouts, operational disturbances beyond our control (e.g. fire, machine breakdowns, roll breakage, raw material or energy shortages), transportation route obstructions, delays to import/customs clearance and any other circumstances whatsoever beyond our control which make delivery difficult or impossible. It is immaterial whether said circumstances arise at our company, the supplier plant or a sub-supplier. If one of the aforesaid events makes the execution of the contract unreasonable for one of the parties, in particular if the execution of the contract is delayed to an extent that is unreasonable for one of the parties by more than 6 months, said party can cancel the contract.
6. If the delivery periods are not met, the Purchaser's rights under §§ 281, 323 BGB (German Civil Code) shall only apply if the Purchaser sets us an appropriate period for delivery expressly stating – at variance with §§ 281, 323 BGB (German Civil Code) – that the Purchaser will refuse the delivery after expiry of said period; after expiry of the period without delivery, claims for fulfilment shall be excluded.
7. We shall be entitled to make partial deliveries to a reasonable extent and to invoice accordingly.
8. If the Purchaser comes into delay with the call-up, the acceptance or collection or if the dispatch or the delivery is delayed due to the fault of the Purchaser, we are then entitled, regardless of on-going claims, to demand a cost lump sum in the amount of the local customary storage costs, independent of whether we store the goods ourselves or with a third party. The verification that no damage, or a lower amount of damage, has arisen remains reserved for the Purchaser.
9. In case of unjustified cancellation of the contract by the Purchaser, we shall be entitled to ask for liquidated damages (compensation instead of performance) amounting to 20 % of the gross-contract-value. The same applies, if the contract is not executed due to reasons we are not responsible for. The verification that no damage, or a lower amount of damage, has arisen remains reserved for the Purchaser. This is without prejudice to further claims of damages.
10. Clause No. 9 does not apply to Products manufactured to Customer's specification. In this event the claim of additional damages shall be reserved.
11. If we have also committed ourselves to delivery, assembly or installation of the delivered object, the Purchaser has to make every necessary preparation. He has to provide suitable facilities for storage and an installation location in a timely manner. The Purchaser shall bear all expenses and additional costs resulting from non-observance of this obligation.

V. Reservation of title

1. All delivered goods shall remain our property (reserved property) until all claims have been fulfilled, including in particular the outstanding balance claims due to us in the framework of the business relationship (reservation of balance) and claims established unilaterally by the insolvency administrator in the course of his duties. This shall also apply to future and conditional claims, e.g. from accepted notes, and also such cases where payments are made on specifically designated claims. This reservation of balance shall finally expire on payment of all receivables covered by this reservation of balance still outstanding at the time of payment. We are entitled to assign our payment claims vis-à-vis the Purchaser.
2. Insofar as the validity of our retention of title requires the cooperation of the Purchaser (for example registration), the Purchaser shall undertake all necessary actions to establish and preserve our rights.
3. With regard to the treatment and processing of reserved property, we shall be deemed to be manufacturer in the meaning of § 950 BGB (German Civil Code) without being committed in any way. The treated or processed goods shall be regarded as reserved property in the meaning of clause No. 1. If the Purchaser processes, combines or mixes the reserved property with other goods, we shall obtain co-ownership in the new goods in the proportion of the invoiced value of the reserved property to the invoiced value of the other goods used. If, by such combining or mixing, our ownership expires, the Purchaser hereby transfers to us his ownership rights to the new goods in proportion to the invoice value of the reserved property and shall keep

them in safe custody for us free of charge. Our co-ownership rights shall be regarded as reserved property in the meaning of clause No. 1.

4. The Purchaser may sell the reserved property only within the normal course of his business in accordance with his normal business terms and provided he is not in default of payment and provided also that he reserves title and transfers to us any claims arising out of the resale in accordance with clauses No. 4 to 6. The Purchaser shall not be entitled to dispose of the reserved property in any other way. Use of the reserved property to fulfil contracts for work and labour shall also be deemed to be resale in the meaning of this Section V.
5. The Purchaser hereby assigns to us any claims resulting from the resale of the reserved property together with all securities which the Purchaser acquires for the claims. Such claims shall serve as security to the same extent as the reserved property itself. If the reserved property is resold by the Purchaser together with other goods not purchased from us, any claims resulting from such resale shall be assigned to us in the ratio of the invoiced value of the reserved property to the invoiced value of the other goods sold. In the case of resale of goods in which we have co-ownership rights according to clause No. 2, the assignment shall be limited to the part which corresponds to our co-ownership rights.
6. The Purchaser shall be entitled to collect any claims receivable resulting from the resale. This right shall expire if revoked by us, at the latest in the event of default of payment, failure to honour a bill of exchange or filing for bankruptcy. We shall exercise our right of revocation only if it becomes evident after conclusion of the contract that payment resulting from this contract or other contracts with the Purchaser is jeopardized by Purchaser's inability to pay. At our request, the Purchaser shall immediately inform his customers of such assignment and furnish us with the documents needed to collect the claims. The assignment of claims receivable resulting from the resale is not permissible unless the assignment takes place in the form of a genuine factoring transaction of which we are notified and in which the factoring proceeds exceed the value of our secured receivable. Our receivable shall fall due immediately upon crediting of the factoring proceeds.
7. The Purchaser shall inform us immediately of any seizure or any other attachment by a third party. The Purchaser shall bear any costs necessary to suspend such seizure or attachment or return the reserved property insofar as such costs are not reimbursed by a third party.
8. Should the Purchaser default in payment or fail to honour a bill of exchange, we shall be entitled to take back the reserved property and to enter for this purpose the Purchaser's premises. The same shall apply should it become evident, that payment resulting from this contract or other contracts with the Purchaser is jeopardized by the Purchaser's inability to pay. If the reserved property is taken back, this shall not be regarded as withdrawal from the contract. The provisions of the insolvency code shall remain unaffected.
9. Should the total invoiced value of the existing securities exceed the secured claims including ancillary claims (interest, costs, etc.) by more than 50%, we shall be obligated, at Purchaser's request, to release securities in the corresponding amount at our discretion.

VI. Grades, dimensions and weights

1. Unless otherwise agreed, grades and dimensions shall comply with the DIN/EN standards and material specifications applying at the time the contract is concluded, or in the absence of these with standard commercial practice. References to standards, material specifications, plant test certificates and testing standards, and details of grades, dimensions, weights and applicability shall not be regarded as assurances or guarantees, nor shall declarations of conformity, manufacturer declarations and corresponding marks such as CE and GS.
2. The weights measured by us or our supplier shall apply. The weighing note shall serve as a record of the weight. Insofar as legally permissible, weights can be measured without weighing according to standards. The standard additions/reductions shall not be affected (commercial weights). Quantities, coil numbers, etc. indicated in the shipment paper shall be nonbinding with regard to goods charged by weight. Unless goods are normally weighed individually, the total weight of each shipment shall apply. Discrepancies against the calculated individual weights shall be distributed equally over all the individual weights.

VII. Acceptance testing

1. If an acceptance test has been agreed, it shall take place at the supplier plant or in our warehouse immediately after notification of acceptance readiness. The Purchaser shall bear the personnel costs of acceptance testing, the material/equipment costs of acceptance testing shall be charged in accordance with our price list or the price list of the supplier plant.
2. If, for reasons beyond our control, the acceptance test is not carried out, not carried out in good time or not carried out in full, we shall be entitled to ship the goods without acceptance testing or to store them at the expense and risk of the Purchaser and to invoice them to him.

VIII. Shipment, transfer of risk, packaging, partial delivery, successive deliveries

1. We shall determine the route and mode of shipment as well as the forwarder and freight carrier.
2. Goods reported ready for shipment in accordance with the contract must be collected immediately; otherwise we shall be entitled, after issuing a demand note, to ship or store the goods at our discretion at the expense and risk of the Purchaser and to issue an immediate invoice. The legal provisions on default of acceptance remain unaffected.
3. If, for reasons beyond our control, transport via the planned route or to the planned destination in the planned time is impossible or severely impeded, we shall be entitled to deliver via a different route or to a different destination; the additional costs incurred shall be borne by the Purchaser. The Purchaser shall be given the opportunity to comment in advance.
4. On handover of the goods to a forwarder or freight carrier, though no later than on the goods' departure from the warehouse or supplier plant, the risk, including that of confiscation of the goods, for all transactions, including franco-domicile and carriage-free deliveries, shall pass to the Purchaser. We shall take out insurance only on the instructions and at the expense of the Purchaser. Unloading commitments and costs shall be borne by the Purchaser.
5. The goods shall be delivered without packaging and without rust protection. We shall deliver packaged goods if this is standard commercial practice. We shall provide packaging, protection and/or transport aids according to our experience at the expense of the Purchaser. They shall be returned to our warehouse. We shall not bear costs incurred by the Purchaser for the return transport or for disposing of the packaging.
6. We shall be entitled to make partial deliveries to a reasonable extent. Standard excess and short deliveries in respect of the agreed volume shall be permissible. The indication of an "approximate" volume shall entitle us to exceed/fall short of the agreed volume by up to 10% and invoice accordingly.
7. Contracts concluded for successive deliveries shall specify appropriate monthly release-order volumes and classifications with a breakdown of grades. Otherwise we shall be entitled to determine the volumes and grades at our own discretion.
8. If the total volume of the individual release orders exceeds the contractual volume, we shall be entitled but not obligated to deliver the additional volume. We may invoice the additional volume at the prices applying for the release order or delivery.
9. In the case of release orders, goods reported ready for shipment shall be approved for release immediately. Otherwise, after issuing a warning, we shall be entitled to choose whether to ship them or place them in storage of our own choice at the Purchaser's expense and risk and invoice them immediately.

IX. Liability for quality defects

- For any lack of conformity of the goods we shall be liable to the Purchaser in accordance with the following provisions:
1. The goods shall be deemed to comply with the contract if they do not deviate or do not deviate significantly from the agreed specifications at the time of the transfer of risk. The contractual compliance and defect-free quality of our goods shall be determined exclusively on the basis of the express agreements on the quality and volume of goods ordered. We shall only accept liability for a specific intended use or a specific property to the extent that this is expressly agreed; otherwise the suitability and application risk shall be borne exclusively by the Purchaser. We accept no liability for the deterioration, loss or improper treatment of the goods after the transfer of risk.
 2. Lacks of conformity of the goods are to be notified in writing promptly, at the latest seven days after date of delivery. Lacks of conformity which, even with most careful examination, could not be discovered within this time period are-with immediate discontinuation of any use or processing thereof - to be notified in writing without delay after discovery, at the latest before expiration of the warranty period.
 3. After performance of an agreed inspection of the goods the Purchaser loses his right to rely on such lacks of conformity which were determinable at the time of the agreed type of inspection.
 4. In Case of justified claims for defects in due time, we may, at our own discretion – taking into account the concerns of the Purchaser – meet our obligations either by delivering a replacement or by rectifying the defect. If we fail to meet our obligations by rectifying the defect or by delivering a replacement, the Purchaser may in due consideration of the legal requirements either withdraw from the contract or reduce the purchase price. The Purchaser is not allowed to withdraw from the contract, if a construction work is the object of warranty or if the work performed by us is debased or reduced in fitness only ignorable. The same applies to goods, which are already sold, processed or reshaped.
 5. Should the Purchaser fail to allow us without delay to convince ourselves of the lack of conformity and should the Purchaser, in particular, upon demand, not promptly provide the defective goods or samples, then the Purchaser loses the right to rely on any lack of conformity of the goods.
 6. In the case of goods sold as downgraded material - e.g. so-called IIa goods -, the Purchaser shall have no claims for defects with regard to the specified reasons for downgrading and any defects which can normally be expected.
 7. The Purchaser's rights of recourse against us pursuant to § 478 BGB shall be limited to the statutory scope of third-party claims for defects against the Purchaser and shall be conditional upon the Purchaser meeting his obligation to notify defects to us pursuant to § 377 of the German Commercial Code (HGB).

X. General limitation of liability and period of limitation

1. Unless otherwise specified in these Terms and Conditions, we shall bear liability for damages - irrespective of legal basis, in particular unenforceability, default, culpability on initiation of the contract and impermissible acts - for intent or gross negligence. For simple negligence, we shall only bear liability
 - a) for damages resulting from injuries to life, body or health,
 - b) for damages resulting from culpable infringement of significant contractual obligations (obligations, whose performance is condition precedent to carry out the contract in due form and whose observance the other party has confidence in and is also free to do so); in this event we shall bear liability only for damages foreseeable and typical for this type of contract. Any further liability on our part, including for damage and consequential damage caused by defects, is excluded.
2. The limitations of liability arising from clause No. 2 do not apply, insofar as we fraudulently concealed a deficiency or provided a guarantee for the condition of the goods. The same shall apply for claims of the Purchaser according to the German Product Liability Act. The rules regarding the burden of proof remain unaffected.

3. The extent to which our liability does not apply or is limited also applies for the personal liability of our staff and legal representatives and persons acting on or behalf.

4. Unless otherwise agreed, claims for defects and contractual claims of the Purchaser against us on account of and in connection with the delivery of goods shall expire by limitation one year after delivery of the goods. This shall not affect the statutory periods of limitation for goods used in accordance with their usual purpose for a building which have caused a defect in the building. Furthermore, sentence 1 shall not apply in cases of gross negligence, intent, injuries to life, body or health, and fraudulent concealment of a defect. The rectifying of defects or supply of replacement goods shall not cause the period of limitation to begin again.

XI. Place of performance, legal venue and applicable law and relevant version

1. The place of performance for our deliveries is the supplier plant for supplies ex works and our warehouse for all other supplies. If the Purchase is a businessman or a company, a legal entity under public law or a public-law trust, the courts at our place of business shall have exclusive jurisdiction in respect of all disputes arising out of or in connection with the relevant contract. But we may also sue the Purchaser in his jurisdiction.

2. All legal relationships between us and the Purchaser shall be governed by the laws of the Federal Republic of Germany

3. In case of doubt the German version of these terms and conditions of sale are authoritative. At request we will place the German text at the Purchaser's disposal.

XIII. Miscellaneous

1. Export certificate

If a Purchaser registered outside the Federal Republic of Germany (foreign buyer) or his representative collects goods or transports or sends them to a third country, the Purchaser shall furnish us with the export certificate required under tax law. If this certificate is not provided, the Purchaser shall pay the sales tax on the invoiced amount for the export shipment applying in the Federal Republic of Germany insofar as we can claim tax exemption for export deliveries.

2. VAT identification number

For shipments from the Federal Republic of Germany to other EU member states, the Purchaser shall notify us prior to shipment of his sales tax identification number under which his profit and income tax is handled within the EU. Otherwise he shall pay the statutory sales tax amount owed by us in addition to the agreed purchase price for our supplies.

3. In cases of invoicing deliveries from the Federal Republic of Germany to other EU member states the VAT regulations of the respective recipient member state apply, either if the Purchaser is registered to VAT in another EU-member state or if we are registered to VAT in the recipient member state.

4. If a provision of these General Terms and Conditions of Supply and Payment is or becomes invalid, this shall not affect the validity of the other conditions.

As at January 2011