

## **General Conditions of Purchase of OTTOSTAHL GmbH, Magdeburg (Version 2021)**

**Note: This is a translation of the German version. In cases of uncertainty or conflict, the German version shall prevail.**

### **I. Application**

1. These Purchase Conditions (Conditions) shall apply to all our present and future orders for goods and services and to the performance of such orders. Seller's conditions diverging from these Conditions will not be acknowledged unless otherwise stipulated within these Conditions or otherwise agreed in the contract with the Seller. Should we accept the goods not expressly objecting to these Conditions, the Seller may in no case assume our consent with his conditions.
2. Oral agreements, promises, assurances and guaranties made or given by our sales staff shall not be binding unless confirmed by us in text form.
3. Any offer made by us will be free of charge and not binding to us.
4. Any trade terms shall, in cases of doubt, be interpreted according to the Incoterms as amended from time to time

### **II. Prices**

1. The contract price shall be regarded as a fixed price.
2. In case of "free house" deliveries, deliveries "free place of destination" and other "free"-deliveries, the price shall include the costs for freight and packaging. In case of "unfree" delivery, we shall bear the lowest possible freight rates only, unless a special kind of delivery has been requested by us.

### **III. Payment**

1. Unless otherwise agreed or unless the Seller's conditions provide for more favourable terms, payment shall be made either within 14 days with 3 p.c. discount or within 30 days without discount.
2. Payment and discount periods shall begin with the receipt of the invoice but not before the receipt of the goods resp. the approval of services and where the contract includes documentation (e.g. test certificates) or similar written material, such periods shall begin only after receipt of such documents as agreed in the contract.
3. Payment shall be made by cheque or by bank remittance. Payment is considered to have been made in time if the cheque has been mailed on the due date or the bank has been charged with the remittance on the due date.
4. We will not be liable for maturity interest. The interest rate for default will be 5pct-points above the Basic Interest Rate. In any case, we may claim and prove a lower default damage than claimed by the Seller.
5. We shall be entitled to all our statutory rights as to the set-off and retention of our claims. We are in particular entitled to refuse payment if and as long any inspection documents acc. to EN 10204 have not been supplied.

### **IV. Delivery Times / Late Delivery**

1. All contractual terms and dates of delivery shall be binding to the Seller. The Seller shall immediately inform us in text form in case of imminent delays and submit to us adequate proposals to remedy the consequences of such delays.
2. Unless otherwise agreed in text form, any contractual terms and dates of delivery shall be considered to be met only if and in so far as the goods have been handed over to us at such dates.
3. If and in so far as the Seller defaults in delivery, we shall be entitled to our statutory rights. In particular, we shall have the right to claim damages for non-performance if and in so far as the Seller fails to effect delivery after a reasonable grace period set to him has elapsed. Our right to request delivery of the goods shall expire only after the Seller has compensated us for our damages.
4. The Seller may excuse his default by claiming the lack of any documents to be submitted

by us only in such cases where we have, upon the Seller's reminder in text form, failed to procure such documents.

#### **V. Retention of Title**

1. The Seller's terms covering his retention of title shall be valid subject to the condition that title in the goods shall pass to us on the date of payment for such goods. Hence, the extended title retention forms of the so-called current account retention (Kontokorrentvorbehalt) shall not apply.
2. The Seller may claim return of the goods on the basis of the retention clause only if he has previously withdrawn from the contract.

#### **VI. Performance of Deliveries and Passing of Risks**

1. The Seller shall bear the risks of accidental loss and accidental deterioration of the goods until it has been handed over to us at its place of delivery. This provision shall also apply in cases of "free delivery".
2. We will not accept partial deliveries unless we have given our prior express consent to them.
3. Excess or short deliveries will be accepted only in accordance with current trade practise.
4. Unless otherwise agreed in text form, the Seller shall bear the costs of packing. Should we, in a given case, agree to bear such costs, the Seller may charge the lowest possible rates only. Any obligations to take back packing material shall be governed by the Packaging Decree (Verpackungsverordnung) of 21.08.1998, as amended from time to time.

#### **VII. Declarations of Origin**

1. The Seller will, upon our demand, provide us with a supplier's declaration regarding the preferential origin of the goods.
2. Where the Seller makes a declaration in regard to the preferential or non-preferential origin of the sold goods, the following terms shall apply:
  - a) The Seller will allow verification through customs authorities and submit all necessary information as well as any required certification.
  - b) The Seller shall compensate us for any damages and losses incurred to us, if and in so far as the competent authorities, due to any deficient certification or impossibility to verify, fail to acknowledge the declared origin, unless he proves that he is not responsible for such consequences.

#### **VIII. Warranty Provisions and Statute of Limitations**

1. The Seller shall deliver the goods free of any material and legal defects. He will warrant in particular that his deliveries and his services comply with the state of the art and with any contractual requirements and standards.
2. We will examine the quality and quantity of the goods upon their receipt to the extent both reasonable and technically feasible for us. A reasonable examination shall, in the absence of any contrary indications, not include possible defects which are not apparent to the eye, but detectable only in case of examinations of the inner properties of the merchandise. Any notice of a defect will be deemed to be in time if it reaches the Seller within eight working days by letter, telefax, e-mail or by telephone. Periods for such notices shall not start before we – or in case of ex-works sales (Streckengeschäfte) our buyers – have detected or should have detected the defect.
3. In the event that the goods show a defect, we may exercise our statutory rights. If the Seller tries to repair the goods, such remedy is considered to have failed after the first unsuccessful attempt. We shall have the right to withdraw from the contract also in such cases where a breach of contract is not considered to be material.
4. Where the goods have already been defective at the time the risk has passed to us, we may claim from the Seller also those expenditures in connection with such defect which we are liable to pay to our customer.
5. Any claims arising from defects of the goods will be governed by the statutory limitation periods. Such periods will begin with the timely notification of the defect in accordance with

the provisions of No. 2 of this clause. The Seller's warranty for the goods will elapse at the latest ten years after its delivery. Such limitation will not apply in those cases where our claims rely on facts which the Seller knew or should have known and which he did not reveal to us.

6. The Seller hereby assigns to us - on account of performance – the benefit of any claims against his supplier arising from the delivery of deficient goods or of such goods not conforming to the guaranteed characteristics. He will supply us with any documents necessary to enforce such claims.

#### **IX. Place of Performance, Jurisdiction, Applicable Law**

1. Unless otherwise agreed to, our warehouse shall be the place of performance for the delivery.
2. The place of jurisdiction shall be Magdeburg. We may, however, sue the Seller at his place of jurisdiction or at the court which is competent for our branch office with which the contract in question has been concluded.
3. All legal relationships between us and the Seller shall be governed by the laws of the Federal Republic of Germany supplementing these Purchase Conditions, including the provisions of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG).

#### **X. Applicable Version**

In cases of doubt, the German version of these General Conditions of Purchase shall apply.