

GENERAL TERMS OF DELIVERY AND PAYMENT OF SSW STAHL-SERVICE WESTHOFF GMBH

S/S/W.
Stahl-Service Westhoff



1. SCOPE OF APPLICATION

- 1.1 All contracts we enter into with entrepreneurs ("Unternehmer" in terms of § 310 subs. 1, § 14 BGB – German Civil Code), legal entities under public law and special funds under public law ("öffentlich-rechtliche Sondervermögen") for the supply of goods or provision of services by us are subject to these General Terms and Conditions of Sale ("GTC Sale").
- 1.2 Our GTC Sale also apply to future contracts entered into under the current business relationship with the customer. Our GTC Sale are at any time available on the Internet for retrieval and download by the customer at <https://www.ssw-westhoff.de/avb.php.de>. At the customer's request, we will also send our GTC Sale to the customer free of charge. Foreign customers will be provided with our GTC Sale in the applicable contract language when we send them our offer and order confirmation at the latest.
- 1.3 We hereby reject all general terms and conditions of business and/or purchase of the customer. General terms and conditions of business and/or purchase of the customer that are contrary or supplementary to, or conflict with or deviate from, our GTC Sale or unilateral terms and conditions of the customer shall not apply, even if we do not explicitly reject them or provide or accept performance without reservation and even if they are incorporated in the customer's purchase order; this shall not apply if we have explicitly accepted the terms and conditions of the customer in writing from time to time.

2. CONTRACT CONCLUSION, CONTRACT DOCUMENTS AND CONTRACT CONTENT

- 2.1 If the customer's purchase order was preceded by an offer issued by us, the contract shall be deemed concluded with the purchase order. If the purchase order deviates from our offer, the contract shall only be deemed concluded with our purchase order confirmation. If our offer is "non-binding", "without engagement" or "subject to change", we shall be free to revoke it until we receive ("Zugang") the purchase order. If our offer is explicitly declared to be subject to the goods being unsold, we shall be entitled to sell the goods otherwise in the time until our receipt ("Zugang") of the purchase order. ¹A purchase order or other declaration is deemed received ("Zugang" in terms of German law) if and as soon as it has come into the recipient's sphere in the way that the recipient can reasonably be expected to take note of it.
- 2.2 If the customer submits an offer to us, the contract shall only be deemed concluded upon the earlier of either receipt ("Zugang") of our purchase order confirmation / invoice or delivery of the goods to the customer. Our purchase order confirmation / invoice shall be binding and conclusive with respect to the scope and content of the contract.
- 2.3 The customer shall be bound to the offer submitted to us for at least four weeks from our receipt ("Zugang") of the offer.

3. PRICES, PRICE ADJUSTMENT, PAYMENT

- 3.1 Our prices are ex works or ex warehouse (ex works Incoterms 2020) and exclusive of packaging, freight, postage, indexation and transport insurance. Value-added tax at the respective current statutory rate must be paid on top. If delivery abroad was agreed, the customer shall bear the customer duties including any costs incurred for customs clearance (such as the cost of a customs agent). Discounts, rebates and bonuses shall only be granted if specifically agreed in writing.
- 3.2 Unless otherwise agreed in writing and except where weighing of each individual item is common practice, the total weight of the load including packaging and pallets shall be taken as a basis for calculation. Differences between the individual weights that make up the load shall be allocated to the individual weights on a pro-rata basis. The seller may also determine the weights in its reasonable discretion without any measuring; for such purpose, the weight shall be determined according to generally accepted standards (e.g. DIN) or theoretically (e.g. by multiplying the product dimensions by the weight per unit). This shall be without prejudice to the generally accepted steel industry trading practices (such as customary increase or reduction of the weight). Weight notes may be presented as proof of weight.
- 3.3 If there is an increase in costs in the time between contract conclusion and delivery, which is not our responsibility ("nicht zu vertreten haben"), including, without limitation, an increase in wages (e.g. due to collective bargaining agreements), costs of primary material, energy, freight or public charges including anti-dumping duties and / or countervailing duties imposed on us by the authorities after contract conclusion, the agreed price may be reasonably increased according to the influence these factors have on the costs but without any additional profit margin; this shall not apply in cases where the customer sells the goods to a consumer.
- 3.4 Our prices are calculated on the basis of the agreed purchase quantities. If no binding purchase quantities have been agreed, the calculation shall be based on the agreed target quantities. If the purchases fall below the agreed target quantities, we shall be entitled to increase the price per unit in our reasonable discretion.
- 3.5 Our claims fall due on the earliest possible collection date stated in our notice of readiness for delivery or, if delivery to the customer was agreed, upon delivery of the goods to the customer, unless another due date has been agreed between the parties in writing.
- 3.6 All payments shall be made in EURO without deduction, free of charge and costs, to the banking institution designated by us. If it was specifically agreed in writing that payment be made in another currency, the applicable exchange rate shall be the EURO reference rate of the European Central Bank valid on the due date.
- 3.7 Any periods we grant for payment or discount deduction run from the invoice date. Any agreed discount may only be deducted if our customer is not in default ("Verzug") of payment of other claims from our business relationship. The discounts shall only be deducted from the net invoice value exclusive of freight costs.
- 3.8 The date when the amount is credited on our business account shall be decisive for the timeliness of payment.

- 3.9 We reserve the right to set off any payments against the oldest invoice amounts due including costs and accrued interest, with the following order of priority: Costs, interest, principal claim.
- 3.10 If the customer fails to pay the amount due two days after receipt ("Zugang") of our notice of readiness for delivery or, if delivery to the customer was agreed, two days after delivery, the customer shall be deemed in default ("Verzug") unless the customer has received our invoice before or the agreed due date for payment has expired before. In the latter cases, the customer shall already be deemed in default ("Verzug"), if payment is not made one day after receipt of the invoice ("Zugang") at the latest or on the agreed due date. In commercial relationships with business people, we first charge interest in the amount of 5 percentage points per year from the due date ("Fälligkeitszinsen") (according to sec. 3.4); from the occurrence of default ("Verzug"), we charge default interest in the amount of 9 percentage points per year above the respective current base interest rate. Our right to claim further damages based on the default ("Verzugsschaden") remains unaffected.
- 3.11 Any agreed periods for payment shall be deemed to lapse if we become aware of a substantial worsening of the customer's financial situation or if our customer provides incorrect or incomplete information or – despite an appropriate request – provides no information on its creditworthiness at all. In these cases, any outstanding claims fall due immediately except if and to the extent the customer is entitled to refuse payment. Moreover, we shall be entitled to draw on any security provided to us and make outstanding deliveries dependent on the provision of adequate security or prepayment. If the customer refuses to furnish security or make prepayment, we shall be entitled to withdraw from the contract with respect to the part of the contract not yet performed by us, with no claims arising for the customer from the withdrawal.
- 3.12 We only accept bills of exchange and cheques if this was specifically agreed with the customer and only on account of performance ("erfüllungshalber"). Bills of exchange must be discountable. Bill of exchange charges and discount charges shall be borne by the customer; they shall be charged from the due date of the invoice and are due for payment immediately. The term of the bill of exchange must not exceed 90 days from the invoice date.
- 3.13 The customer may only set its own counterclaims off against our claims if the counterclaim is undisputed or has been acknowledged by us or has become res judicata or if the counterclaim case is ready for decision because the underlying facts have been sufficiently cleared up ("entscheidungsreif") or if the customer's counterclaim is based on the same contractual relationship from which we derive our own claim. The same shall apply with respect to the customer's right to refuse performance and the customer's right of retention. The customer may only invoke a right of retention if we have not provided reasonable security despite the customer's written request.

4. DELIVERY, PASSING OF RISK, DELIVERY TIMES, SUPPLY QUANTITIES, CONTRACTUAL PENALTY

- 4.1 All deliveries are made ex works (Incoterms 2020). The risk with respect to payment and performance shall pass to the customer at the end of our usual business hours on the earliest possible collection date stated in our notice of readiness for delivery; in the case of an obligation to deliver fungible goods ("Gattungsschuld"), the risk shall only pass to the customer after we have specifically identified and separated the goods to be delivered to the customer. Shipment of the goods shall only take place after written agreement and at the customer's risk.
- 4.2 Fixed dates for delivery ("Fixtermine") require our written confirmation. We are entitled to make reasonable partial deliveries.
- 4.3 In the case of a delay in delivery due to unforeseeable extraordinary events occurring with us or our own suppliers or service providers such as industrial action, acts of God such as floods, low water or high water on the waterways, pandemics, epidemics and state measures for mitigation resulting therefrom, terrorist acts, state measures including, without limitation, embargoes imposed on countries, restrictions relating to goods, traffic interruptions or other restraining foreign trade measures including, without limitation, those implemented by the Federal Republic of Germany, the European Union or the USA, operational disturbances (such as fire, machinery or roller breakage, shortage of raw materials or energy), obstruction of traffic routes, delay in import/customs clearance, riots etc., we shall be released from our supply obligation for the duration of the event or, if delivery becomes definitely impossible ("Unmöglichkeit"), we shall be fully and definitely released from our supply obligation, provided that we are not responsible ("nicht zu vertreten haben") for the cause of the delay in delivery. If the delay in delivery lasts longer than six months, either party shall be entitled to withdraw from the contract; any further claims are excluded.
- 4.4 Any grace period to be granted to us must be at least three weeks.
- 4.5 If and to the extent we cannot deliver goods due to non-supply, insufficient supply or supply of defective goods by our own suppliers even though we have concluded congruent covering transactions, we shall be released from our supply obligation and we shall be entitled to withdraw from the relevant contract. Our customer may however request delivery of the non-defective goods available on the agreed delivery date. We shall notify our customer accordingly. We shall refund to our customer all payments already made. Any further claims of the customer shall be excluded.
- 4.6 In the case of contracts for recurring or continuous supply, the customer shall advise us of the intended call-offs and the sorting of the monthly quantities no later than 14 days before every partial delivery. If the goods are not called off or the sorting is not communicated in time, we shall be entitled, after fruitless expiry of a reasonable grace period granted by us, either to sort the remaining quantity of goods in our reasonable discretion and fix the delivery date or to withdraw from the part of the contract not yet performed by that time and claim damages.
- 4.7 If the customer calls off more than the agreed contract quantity, we shall be entitled to deliver the excess quantity at the daily price valid on the call-off day.
- 4.8 We do not accept, or make any undertaking to pay, contractual penalties for non-performance or improper performance.

As amended in November 2023

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5. THIRD-PARTY PROPRIETARY RIGHTS, INDEMNIFICATION, OUR OWN PROPRIETARY RIGHTS

- 5.1 It is the sole responsibility of the customer to ensure that any infringement of third-party proprietary rights or other third-party rights due to the specifications the customer provides to us for the goods and their processing is excluded.
- 5.2 If a third party asserts claims against us for an infringement of proprietary rights which is due to the customer's specifications:
- we shall notify the customer of the asserted claims without undue delay ("unverzüglich"),
 - our customer shall fully indemnify us upon first written request from any and all justified third-party claims including reasonable costs of legal defence and/or assertion of rights,
 - our customer shall, in its discretion and at its sole expense, either procure the right to use the goods with the relevant specifications or change the specifications so as to prevent any infringement of the proprietary right, except if we bear sole responsibility ("zu vertreten haben") for the infringement. Any further statutory claims to which we may be entitled shall remain unaffected.
- 5.3 Our claims for infringements of proprietary rights or other defects in title shall become time-barred after 10 years from the passing of risk.
- 5.4 We reserve all rights including copyrights, trademark and labelling rights, rights in company names and rights to know-how with respect to all samples, manufacturing facilities and equipment, illustrations, prospectuses, calculations and other documents. The customer must not make the said materials available to third parties or copy, reproduce or distribute them without our explicit written approval. This applies in particular to documents which are marked "confidential".

6. QUALITY OF THE GOODS, WARRANTY

- 6.1 Our quality management system is certified according to ISO 9001: 2015. This shall however not be deemed to constitute a quality agreement for our products.
- 6.2 We are only obliged to deliver goods of average kind and quality in accordance with customary tolerances regarding dimensions, weight, quality and packaging.
- 6.3 The weights and analyses shall be determined by our delivery points, which shall be decisive for the calculation. If we deliver the goods to the customer, the total weight shall be decisive for the calculation, regardless of the transportation means used. We do not warrant the correctness of the number of coils, if any, stated in the invoice. Any differences with respect to the calculated individual weights shall be allocated to them proportionately.
- 6.4 In the case of customized goods, excess or short delivery of up to 20 % shall not be deemed to constitute a defect. If delivery of an "approximate" quantity is agreed, we shall be deemed to properly fulfil our delivery obligation if we deliver 20 % more or less.
- 6.5 External corrosion, dirt caused during transport or impairments of the surface of the goods, which are due to the lack of packaging and/or exposed transport of the goods, shall not be deemed to constitute a defect of quality if the customer did not order packaging.
- 6.6 The customer shall be solely responsible for the proper construction, in particular with regard to the intended purpose of use of our goods by the customer and in consideration of any applicable safety regulations and the required test procedures, as well as for the correctness and completeness of its technical supply specifications and the technical documents and drawings provided to us. This shall also apply if we suggest changes which are approved by the customer. In principle, we are only obliged to deliver goods that are marketable and eligible for licensing in the Federal Republic of Germany.
- 6.7 The customer shall not be entitled to claim delivery of goods originating from the European Union within the meaning of preferential rules of origin in terms of customs regulations unless such an origin of the goods was explicitly agreed between the parties.
- 6.8 The operational wear and tear of wear parts shall not be deemed to constitute a defect and thus shall not give rise to warranty claims of the customer. The same shall apply in the case of defects caused by unsuitable or improper use, defective installation or improper commissioning of the delivered goods by the customer including, without limitation, defects caused by the use of improper operating equipment, substitute working material or other improper framework conditions.
- 6.9 The information contained in our prospectuses and catalogues such as illustrations, drawings, weights and dimensions are non-binding unless we have explicitly designated them as binding.
- 6.10 The publications and papers of the steel information centre (Stahl-Informations-Zentrum) and especially the information on "characteristic features", which are generally included in our offers, provide information on the respective current state of the technical designs and supply options for belts and steel sheets refined by hot dipping or electrolysis and for coil-coated flat products. Any references to other standards, works standards, material data sheets or test certificates and data relating to the quality, dimensions, weights and usability as well as any declarations of conformity, manufacturer's declarations and markings such as CE or GS are mere quality specifications.
- 6.11 Used goods are sold without any warranty.
- 6.12 If a non-used delivered item is defective, the customer shall only be entitled to claim delivery of a substitute item ("Nachlieferung"). Defect rectification ("Nachbesserung") shall be excluded because this usually causes unreasonable costs and the exclusion of defect rectification does not cause any considerable disadvantage to the customer. We may however in our discretion choose defect rectification instead of substitute delivery.

- 6.13 The customer shall at our request provide us with samples from the allegedly defective material without undue delay ("unverzüglich") or otherwise give us the opportunity to verify the defect; otherwise, all warranty claims shall expire. Any material sent to us for inspection shall be kept for a maximum period of three months from the day of passing on the works inspection report and shall be scrapped thereafter unless the customer has explicitly requested the material to be returned to it.
- 6.14 All goods for which we deliver a substitute become our property. The goods must be protected from any alteration, especially from corrosion, and must be sent to us upon our request and at our expense, together with a description of the defective parts of the goods.
- 6.15 Goods which were agreed to be sold as declassified material (such as so-called IIa material) is in any case sold without any warranty; the customer must reasonably expect defects in quality to occur with such material.
- 6.16 If our customer, after giving notice of defect and after expiry of the grace period granted to us for cure ("Nacherfüllung"), fails to make clear which of the available statutory rights to choose, we shall be entitled to request the customer in writing to make an appropriate declaration within a period of two weeks. After fruitless expiry of this period, the right of choice shall pass to us.
- 6.17 If the attempt to cure the defect ("Nacherfüllung") is unsuccessful or does not take place within a reasonable period granted to us, the customer shall be entitled to withdraw from the contract ("Rücktritt") or reduce the purchase price ("Minderung"). The customer shall only be entitled to damages for defective goods on the conditions under sec. 7 of these GTC Sale.
- 6.18 We only bear costs and expenses incurred in connection with the cure of the defect ("Nacherfüllung") if they are reasonable in the specific circumstances of the individual case in question, in particular in relation to the purchase price. The costs incurred for the cure (including all expenses necessary for the cure within the meaning of § 439 subs. 2 and 3 BGB (German Civil Code)) shall in any case be deemed disproportionate in terms of § 439 subs. 4 BGB (German Civil Code) if they exceed one and a half times the purchase price of the defective goods.
- 6.19 Recourse claims of the customer under § 445a subs. 1 BGB (German Civil Code) shall be excluded unless we are responsible ("zu vertreten haben") for the defect of the goods which has caused the customer's expenses to be reimbursed by us or the end customer is a consumer. The application of § 445a subs. 2 BGB (German Civil Code) is excluded unless the end customer is a consumer.
- 6.20 The statutory obligations to inspect the goods and give notice of defect pursuant to § 377 HGB (German Commercial Code) shall apply without restriction, with the proviso that the customer must give notice of recognizable defects without undue delay ("unverzüglich") but no later than within one day of delivery of the goods, in which case the timely dispatch of the written notice of defect shall suffice to keep the deadline. The customer shall in any case inspect the goods before their assembly with, or integration in, another item. The customer's approval of initial samples, if any, shall not release the customer from its obligation to inspect the goods and give notice of defect nor shall the approval justify a restriction of this obligation.
- 6.21 The warranty period is twelve months except in the cases referred to in sec. 6.21 and in the case of fraudulent intent ("Arglist"); in these cases, the statutory warranty periods shall apply. In the case of delivery ex works (Incoterms 2020), the twelve-month warranty period runs from the time of collection of the goods; if another mode of delivery is agreed between the parties, the warranty period runs from the time of hand-over of the goods or, if inspection and formal approval of the goods ("Abnahme") was agreed, from the time of approval.
- 6.22 If a consumer or the customer's own customer asserts claims against the customer for a defect of the delivered goods that already existed at the time when the risk passed to the customer and which was complained about by a consumer as the end customer, the statutory recourse claims which the customer is entitled to assert against us according to § 478, § 479 BGB (German Civil Code) and especially the limitation period of 5 years from hand-over of the defective goods shall remain unaffected.

7. PRODUCT-RELATED SPECIFICATIONS

- 7.1 The goods must be stored in dry and evenly tempered premises. This shall also apply after any possible processing of the goods by the buyer.
- 7.2 Protective foils or sheets, if any, must be removed no later than within one month of the processing.

8. LIABILITY

- 8.1 Customer's claims for damages, regardless of the legal basis, as well as claims for reimbursement of futile expenses are excluded unless the damage was caused either by an intentional or grossly negligent breach of duty or by an at least negligent breach of a contractual duty the fulfilment of which is absolutely indispensable for the proper performance of the contract and on the compliance with which the customer has relied and was reasonably allowed to rely and the culpable (intentional or negligent) non-fulfilment of which endangers the achievement of the contract purpose (essential contractual duty – "wesentliche Vertragspflicht"); in the latter case, our liability shall be limited to the amount of the typical damage that was foreseeable upon contract conclusion, limited however to a maximum amount equivalent to the accumulated net turnover realized with our customer during the last full 12 calendar months preceding our breach of duty that gave rise to the customer's claim.
- 8.2 In the case of damage caused by delay ("Verzugsschaden"), our liability for slight negligence ("leichte Fahrlässigkeit") shall be limited to an amount of up to 5 % of the net invoice amount of the purchase order concerned by the delay.

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- 8.3 The limitation of liability according to the foregoing sections 8.1 and 8.2 shall also apply to the personal liability of our employees, representatives, officers and executive bodies ("Organe") and of our vicarious agents and other persons whom we engage in the fulfilment of our obligations ("Erfüllungsgehilfen").
- 8.4 We accept no liability for any intentional or negligent misconduct of our own (sub-) suppliers.
- 8.5 The limitation of liability according to sections 8.1 to 8.4 above shall not apply in the case of damage caused by an injury to the life or limb or health of a person or by a violation of a person's freedom or in the case of liability under the Produkthaftungsgesetz (German Product Liability Act) or in exceptional cases where we have given an express warranty/guarantee ("Garantie").
- 9. LIMITATION PERIOD**
- 9.1 § 195 BGB (German Civil Code) notwithstanding, the regular knowledge-based limitation period for claims of the customer shall be 18 months. The limitation period shall run from the time prescribed by § 199 subs. 1 BGB (German Civil Code).
- 9.2 § 199 subs. 3 no. 1 BGB (German Civil Code) notwithstanding, the regular limitation period, irrespective of knowledge, for claims of the customer shall be five years from the time when the claim came into existence.
- 9.3 Section 9.1 of these GTC Sale notwithstanding, the limitation period for the customer's claims for damages arising from the contract and claims for reimbursement of futile expenses which are based on a defect of the goods as well as for the customer's right to claim cure ("Nacherfüllung") shall be 12 months. Recourse claims under § 478 et seq. BGB (German Civil Code) shall remain unaffected thereby.
- 9.4 Sections 9.1, 9.2 and 9.3 sentence 1 shall not apply in the case of an intentional or grossly negligent breach of duty or a breach of essential contractual duties ("wesentliche Vertragspflichten") (see sec. 8.1) nor in the cases referred to in sec. 8.5. In these cases, the statutory periods shall apply.
- 9.5 Our payment claims and claims to interest shall become time-barred after five years unless the law provides for a longer limitation period.
- 10. EXTENDED AND PROLONGED RESERVATION OF TITLE ("ERWEITERTER / VERLÄNGERTER EIGENTUMSVORBEHALT")**
- 10.1 We reserve title to the delivered goods ("goods subject to reservation of title") until all our claims against the customer have been satisfied in full ("secured claims") and all cheques and bills have been paid. "Secured claims" shall be all current and future claims arising from the business relationship with the customer including any outstanding balance claims from current accounts.
- 10.2 The customer is obliged to carefully keep the goods subject to reservation of title and maintain and repair them and take out replacement cost insurance ("Neuwertversicherung") against theft and damage at its sole expense to the extent usual with diligent business persons and the customer shall provide us with a written confirmation from the insurer without undue delay ("unverzüglich") upon request. The customer hereby transfers to us by advance assignment for security purposes its claims to compensation under the said insurance. We hereby accept the assignment.
- 10.3 Any processing of the goods by the customer shall be carried out for us on our behalf. We become the owner of the new item. Any processing, mixing, integration or combination of the goods subject to reservation of title with other goods shall also be deemed carried out for us on our behalf. We shall acquire co-ownership of the so generated new item according to the proportion of the invoice value of the goods subject to reservation of title to the invoice value of the other goods. In case our goods are integrated, combined or mixed with a main item which does not belong to us, the customer hereby transfers to us its rights in the main item by way of advance assignment for security purposes. We hereby accept the assignment. New items and main items within the meaning of this sec. 10.3 shall also be deemed to be goods subject to reservation of title.
- 10.4 The customer is entitled to dispose of the goods subject to reservation of title in the ordinary course of business provided and as long as the customer is not in default of payment ("Zahlungsverzug"). This shall not apply if and to the extent that a prohibition of assignment was agreed between the customer and its own customers with respect to the customer's purchase price or work compensation ("Werklohn") claim. The customer is not entitled to pledge the goods subject to reservation of title or transfer ownership of these goods by way of security or otherwise charge or burden them. The customer shall neither be entitled to assign its claims from the resale of the goods subject to reservation of title to have them collected by factoring unless the customer irrevocably commits the factor to pay the amount due directly to us insofar as we have secured claims against the customer.
- 10.5 The customer shall be obliged – when reselling the goods subject to reservation of title – to safeguard our rights in the amount of the secured claims owing to us insofar as this is reasonable and feasible in the ordinary course of business. This may be done by the customer making the transfer of ownership of the goods sold by the customer to its own customer dependent on full payment of the purchase price.
- 10.6 In case the customer sells the goods subject to reservation of title, the customer hereby transfers to us by way of advance assignment for security purposes the customer's claims from the resale to its own customers or third parties (including any outstanding balance claims from current accounts), together with all security interest and ancillary rights, including claims from bills and cheques, in an amount equivalent to the secured claims owing to us. We hereby accept the assignment. If the goods subject to reservation of title are sold together with other items at an overall price, the assignment shall be limited to the partial amount charged in the customer's invoice for the goods subject to reservation of title sold in that overall transaction. In the case of a sale of goods of which we have acquired co-ownership according to sec. 10.3, the assignment shall be limited to the part of the claim that corresponds to our co-ownership share.
- 10.7 The customer is entitled to collect the claims assigned to us under sections 10.2 and 10.6 in its own name and for its own account, provided and to the extent that we have not revoked the collection authority. Our right to collect the assigned claims ourselves remains unaffected thereby. We shall however not collect the assigned claims ourselves and we shall not revoke the customer's collection authority as long as the customer is not in default ("Verzug") of proper fulfilment of its payment obligations and its financial situation has not worsened considerably. In any of the latter cases should occur, the customer shall be obliged to provide us with all information and documents necessary for the assertion of the assigned claims.
- 10.8 The customer undertakes in the case of default ("Verzug") or a considerable worsening of the customer's financial situation or other than minor breaches of duty to return the goods subject to reservation of title to us, subject to the provisions of § 107 subs. 2 InsO (German Insolvency Act). This obligation shall exist regardless of a withdrawal from the contract ("Rücktritt") or the grant of a grace period for compliance ("Nachfristsetzung"). The customer already now authorizes us to access its business premises to collect the goods. We shall be entitled to resell any returned goods in the ordinary course of business and set the cost of realization and our other claims against the customer off against the proceeds from the resale. Acceptance of returned goods shall only be made for security purposes and shall only be deemed to constitute withdrawal from the contract if this is explicitly declared by us in writing. When calculating the compensation payable for occurred utilization in the case of withdrawal, the reduction in value that has occurred meanwhile must be taken into account.
- 10.9 The customer shall notify us without undue delay ("unverzüglich") of any execution levied by third parties against the goods subject to reservation of title or the claims assigned to us or other security furnished to us, providing us with all information necessary for us to intervene in the execution procedure; the same shall apply with regard to all other kinds of interference or encroachment. If the third party is unable to reimburse us for the judicial and extra-judicial costs incurred in this context, the customer shall be liable for reimbursement.
- 10.10 We undertake at the customer's request to release the security provided to us under the foregoing provisions insofar as the value realizable from the security exceeds 110 %, or the estimated value of the goods subject to reservation of title exceeds 150 %, of the claims to be secured. We may choose the goods to be released in our sole discretion. The realizable value shall be the realization proceeds that can be obtained for the goods subject to reservation of title in the (hypothetical) case of the customer's insolvency at the time of our decision on the request for release. The estimated value shall be the market price of the goods subject to reservation of title at that point in time.
- 10.11 If and to the extent that the reservation of title should be invalid under the foreign law of the country where the goods subject to reservation of title are located, the customer shall at our request provide us with equivalent security. If the customer fails to do so, we shall be entitled to claim immediate payment of all outstanding invoice amounts.
- 11. COMPLIANCE**
- Our customer undertakes to comply with all applicable statutory regulations governing the treatment of employees, environment protection and safety at work as well as with the principles of the United Nations Global Compact.
- 12. CONFIDENTIALITY**
- 12.1 "Confidential information" within the meaning of the following non-disclosure obligation shall include all information (including data, records, documents, drawings, samples, technical components and know how), which is/was made available to the executive bodies/officers ("Organe"), employees, advisers and consultants of the customer or other third parties working for the customer in the framework of this contract and the related contract negotiations, including, without limitation, information about our company, our sub-suppliers, our production processes, our price calculations etc. and which are marked "confidential" or which by their nature require confidentiality, regardless of whether and which carrier media are used for the embodiment of the confidential information; the non-disclosure obligation shall in particular also apply to orally disclosed information.
- 12.2 Our customer is obliged to maintain strict secrecy of the confidential information and not to disclose or pass it on or make it available to third parties without our written consent. Our customer shall take appropriate measures to protect confidential information which shall at least correspond to the measures which the customer takes to protect particularly sensitive information about the customer's own company.
- 12.3 Our customer shall not use confidential information disclosed by us for any purposes other than the performance of the relevant contract. In particular, our customer shall not be entitled to copy, reverse engineer, open or disassemble any samples or other pertinent information or material received from us.
- 12.4 The non-disclosure obligations shall not apply to information for which the customer can prove that
- in the individual case in question, we have given our prior written consent to its disclosure or use by our customer;
 - it was publicly known before the conclusion of this non-disclosure agreement;
 - our customer had received it from a third party before the conclusion of this non-disclosure agreement or has received it from a third party thereafter without breaching this non-disclosure obligation, provided in each case that the third party has lawfully obtained possession of the confidential information and, by its disclosure, does not breach any binding confidentiality obligation imposed on the third party; or
 - our customer is obliged by law or by any applicable stock exchange regulations or by an enforceable order issued by a competent court or authority to disclose the confidential information.
- 12.5 This non-disclosure obligation shall take effect upon conclusion of this contract and shall expire five years after the termination of the business relationship.

As amended in November 2023

SSW Stahl-Service Westhoff GmbH

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Geschäftsführer

Tobias Westhoff
Amtsgericht Arnsberg
HRB 4628

GENERAL TERMS OF DELIVERY AND PAYMENT OF SSW STAHL-SERVICE WESTHOFF GMBH



13. PROOF OF EXPORT, EXPORT LICENSE, ENTRY CERTIFICATE ("GELANGENSBESTÄTIGUNG"), INADMISSIBLE SUBSEQUENT DELIVERY

- 13.1 If a customer domiciled outside the Federal Republic of Germany (extraterritorial buyer) or a person authorized by the customer collects the goods and ships or dispatches them, the customer shall be obliged to provide us with appropriate proof of export required under tax law. In default of such proof, the customer shall be obliged to pay value-added tax on the invoice amount at the respective rate applicable to supplies within the Federal Republic of Germany.
- 13.2 The sale, resale and disposition of the deliverables as well as the technology or documentation related thereto may be subject to German or EU or US export control law and also to the export control law of further countries, if applicable. Any resale to embargoed countries or blocked persons or persons who use or may use the deliverables for military purposes, for NBC weapons or nuclear power engineering shall be subject to permission. The customer shall confirm with its purchase order compliance with any such legislations and regulations and shall further confirm that the deliverables will not be – directly or indirectly – delivered to countries that prohibit or restrict the importation of such goods. The customer shall confirm to have obtained all permissions required for the export or import.
- 13.3 Our customer is obliged under § 7a and § 17c of the "Umsatzsteuerdurchführungsverordnung" (German value-added tax implementation regulation) to provide for every tax-exempt intra-Community supply of goods from Germany to another EU member state appropriate proof to us that the goods actually entered another EU member state (entry certificate – "Gelangensbestätigung"). Such proof must be furnished through a standard form provided by us. In default of such proof, our customer shall be obliged to pay value-added tax on the previous (net) invoice amount at the rate applicable to supplies within the Federal Republic of Germany.
- 13.4 Goods which are intended for exportation to territories outside the Common Market of the European Economic Community must be exported. Goods which were exported to these territories must not be reimported into the territory of the Common Market.

14. PLACE OF PERFORMANCE ("ERFÜLLUNGORT"), PLACE OF JURISDICTION, GOVERNING LAW

- 14.1 The place of performance ("Erfüllungsort") of the customer's payment obligations shall be our corporate domicile in Arnsberg. The place of performance of all other contractual obligations shall be the works or warehouse which we have ordered to execute delivery or the place from where we dispatch the goods.
- 14.2 For both parties, the place of exclusive jurisdiction for all disputes arising from commercial transactions with merchants to whom the regulations of the German commercial code apply without restriction ("Vollkaufleute") and with legal entities under public law shall be Arnsberg (§ 38 ZPO – German Code of Civil Procedure). The same shall apply to the so-called "Wechselprozess" and "Scheckprozess" which are special summary proceedings deciding on claims arising from a bill of exchange or a cheque and which are based entirely on documentary evidence. We may however also sue our customer at the place of general jurisdiction applicable to it ("allgemeiner Gerichtsstand"). Matters over which the German local courts (Amtsgerichte) have exclusive jurisdiction shall be decided by the Amtsgericht Arnsberg.
- 14.3 The relationship between the parties shall be governed by the law of the Federal Republic of Germany with the exception of all references made to other legislations and international conventions and treaties. The application of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG, "Vienna Sales Law") is excluded.

15. SEVERABILITY

If any individual provisions of these GTC Sale or the supply contract or parts thereof should be or become invalid, the validity of the remaining provisions or remaining parts of these provisions shall remain unaffected thereby. The invalid provision shall be replaced by a valid provision which corresponds as closely as possible to the purpose of the invalid one.

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