



General Terms of Delivery and Payment for Steel Foundry

Our deliveries and services shall only be performed based on the following terms and conditions.

Other terms and conditions of the purchaser shall not apply even if we are aware of them and execute the delivery without any reservation. Our terms and conditions shall not apply vis-à-vis consumers within the meaning of § 13 BGB [German Civil Code]. They shall also apply to all future transactions with the purchaser under the current business relationship.

All agreements entered into between us and the purchaser for the purpose of executing this contract must be recorded in writing in this contract. Changes of and supplements to this contract must be made in writing.

1. Conclusion of the contract, scope of delivery

- a) Our offer shall be subject to change unless otherwise stipulated in the order confirmation or otherwise declared by us in writing. A contract shall only take effect if we have confirmed an order in writing or if we execute the order.
- b) The information included in brochures and catalogues, such as pictures, drawings, weight and dimension data shall be approximate values as customary in the industry, unless they are expressly identified as being binding.
- c) We shall reserve the copyrights regarding pictures, brochures, calculations and other documents; they must not be made accessible to third parties. This shall apply in particular to those written documents which are designated as "confidential"; the purchaser shall require our express written consent before forwarding such documents to third parties.

2. Pricing and terms of payment

- a) Our prices shall apply ex works excluding packaging, freight, postage, insurance and the respective statutory VAT.
- b) In the case of significant changes of order-related costs after the conclusion of the contract, the contracting parties shall agree on an adjustment.
- c) Unless otherwise agreed, our invoices shall be immediately payable without deduction.
- d) The purchaser shall only be entitled to retain or offset payments due to any counterclaims to the extent that uncontested or legally ascertained claims for payment are given.
- e) In the case of delivery of partly faulty goods by us, the purchaser shall still be obliged to pay for uncontestedly faultless goods unless the partial delivery is not of interest for the purchaser.
- f) We shall accept discountable and properly taxed bills of exchange on account of payment if this has been expressly agreed in advance. Credit notes regarding bills of exchange and cheques shall be made subject to receipt minus the expenses with the value date on the day when we can dispose of the equivalent value.
- g) If we are obliged to render advance performance and if we learn of circumstances under which our claim for payment is endangered due to the insufficient capacity to perform on part of the purchaser after the conclusion of the contract, we can, in addition to the statutory claims under the reservation of ownership agreed in clause 9, prohibit the resale and the processing of the delivered goods and request their return or the transfer of the indirect ownership regarding the delivered goods at the expense of the purchaser and revoke the collection authorisation subject to the prerequisites of clause 9 (letter h). In the stated cases, the purchaser herewith authorises us to enter its plant and to collect the delivered goods. Taking back the goods shall only constitute a termination of the contract if expressly declared by us. An endangerment to the claim for payment due to the insufficient capacity to perform is deemed to be present if a credit rating company, which is deemed to be legally authoritative, classifies the creditworthiness of the purchaser at a significantly lower level than at the time at which the contract was concluded, or if negative conditions exist according to such a company. Endangerment is still deemed to be present even if the causes of the lower rating or of the negative conditions were already present upon conclusion of the contract and said causes were known to us.
- h) In the case of default of payment and following written notification, we can discontinue the performance of our obligations until the receipt of the payments. After setting a reasonable grace period, we shall also be entitled to rescind the contract in this case.
- i) Discounts are only granted if we have expressly agreed to them. Discount periods always begin on the date of invoicing, regardless of the time of receipt or delivery of the invoice. A discount period is only complied with if we can dispose of the amount paid within said period. Cheques must reach us three banking days before the expiry of the discount period. In the event of a default in payment, any discount deductions for any other due payments are forfeited, unless the outstanding payment is obviously insignificant. We hereby object to any tacit agreements regarding a change in the discount conditions, even in cases where such discounts are long-standing practices. Tolerated unauthorized discount deductions do not exclude later claims for payment of outstanding amounts. The limitation period for corresponding claims is five years from the end of the calendar year in which the outstanding payment became due.

3. Delivery time

- a) Delivery periods shall commence with our order confirmation but not before all details of the execution have been clarified and all other prerequisites to are fulfilled; the same shall apply to delivery dates. Deliveries prior to the expiry of the delivery time and partial deliveries shall be admissible unless they are unacceptable for the purchaser. The date of notification of readiness for delivery shall be regarded as the date of delivery, or alternatively, the date of dispatch. Unless otherwise agreed or otherwise resulting from the contractual relationship, the delivery period stated by us shall always be without commitment.
- b) Agreed periods and dates of delivery shall be prolonged and/or postponed without prejudice to our rights arising from the default of the purchaser by the period which the purchaser is in arrears with its obligations. If the purchaser is in default of acceptance or if the purchaser culpably violates other duties to cooperate, we shall be entitled to claim the damage incurred by us including possible additional expenses.
In this case, the risk of accidental loss or accidental deterioration of the purchased item shall also pass to the purchaser at the time when the purchase is in default of acceptance.



- c) If we are in default, the purchaser can set a reasonable period of grace with the express declaration that the purchaser will reject the acceptance of the performance after the expiry of such period and then rescind the contract after the expiry of such period.
- d) The purchaser shall, on our request, be obliged to declare within a reasonable period whether the purchaser rescinds the contract due to the delay of delivery and/or requests damages in lieu of performance or insists upon the delivery.

4. Serial delivery, long-term contracts and call-off contracts

- a) Open ended contracts can be terminated with a period of notice of 6 months to the end of the month.
- b) If a significant change of wage, material or energy costs occurs in the case of long-term contracts (contracts with a term of more than 12 months and open-ended contracts) after expiry of the first four weeks of the contractual term, each of the contracting parties shall be entitled to request a reasonable adjustment of the price, taking into account these factors.
- c) Our prices are calculated based on the agreed order quantity. If no binding order quantities are agreed, our calculation shall be based on the agreed target quantities. If the order quantity or the target quantity is fallen short off, we shall be entitled to reasonably increase the price per unit. If the purchaser exceeds the quantity with our consent, the purchaser may request a reasonable price reduction if the purchaser notifies this in writing at least 2 months prior to the agreed delivery date. The amount of the reduction or the increase must be determined based on our calculation bases.
- d) In the case of call-off delivery contracts and unless otherwise agreed, binding quantities must be notified at least 3 months prior to the delivery date by issuing call orders. Additional costs caused by the purchaser as a result of a delayed call order or subsequent changes of the call order as regards the time or quantity shall be at the purchaser's expense; in this respect, our calculation shall be authoritative.
- e) In the case of series production, an excess or short delivery up to 10% compared to the order quantity shall be admissible due to the peculiarities of the foundry procedure.
- f) The total price shall change according to the scope of such excess or short delivery.

5. Force majeure and other impediments

- a) Events of force majeure, industrial disputes, lock-out and governmental actions shall entitle us to postpone the delivery by the duration of the impediment and a reasonable start-up time or to rescind from the unfulfilled part of the contract, either in full or in part.
- b) Unforeseeable events, such as interruptions of operations, rejects and reworking, rendering the timely delivery impossible despite acceptable efforts shall be equal to force majeure; we must furnish proof in this respect.

6. Test methods, final inspection

- a) If a final inspection has been agreed, the extent and the conditions must be specified at the same time before the conclusion of the contract.
- b) If this is not done, the final inspection shall take place to the extent that is customary for us and subject to our customary conditions. The same shall apply to the initial sampling inspection.

7. Dimensions, weights, number of units

- a) Deviations of dimensions, weight and number of units within the scope of customary commercial tolerances, relevant DIN regulations and technical castings requirements shall be admissible. Any specifications of dimension and weight in our offers and order confirmations shall not constitute quality guarantees.
- b) The delivery weights and quantities determined by us shall be authoritative for the calculation.

8. Shipment and passing of risk

- a) Unless otherwise agreed in writing, the delivery clause "ex works" (Incoterms 2000) shall apply. This shall also apply if we have undertaken to bear the transport costs.
- b) We will only take out transport insurance for the delivery at the express request of the purchaser; the costs incurred in this respect shall be borne by the purchaser.
- c) Goods for which the readiness for shipment has been notified must be taken over immediately, otherwise we shall be entitled at our option to ship the goods or to store them subject to the standard shipper's costs and at risk of the purchaser; we shall also be entitled to do the latter if the shipment taken over by us cannot be executed without us being at fault. The goods shall be considered to be delivered one week after the start of the storage.
- d) If there are no special instructions, the choice of the means of transport and the transport route shall be made at our discretion.
- e) Upon handover to the railroad company, the shipper or the freight carrier or one week after the start of the storage but at the latest upon leaving the factory or warehouse, the risk shall pass to the purchaser, even if we have taken over the delivery.

9. Reservation of ownership

- a) All delivered goods shall remain our property (reserved goods) until all receivables are satisfied, in particular including the respective outstanding balances to which we are entitled under the business relationship. This shall also apply if payments are made with regard to particularly designated receivables. If the purchaser is in default of payment, we shall be entitled to request the surrender of the goods supplied. The costs in this respect shall be borne by the purchaser. This shall not apply if applications for the opening of insolvency proceedings against the purchaser have been filed or if insolvency proceedings have been opened due to which we are not entitled to request the immediate surrender of the delivered goods.
- b) Taking back the goods or asserting the reservation of ownership shall only constitute a rescission of the contract if expressly declared by us.
- c) The purchaser shall always carry out the treatment or processing of the delivered goods on our behalf. If the reserved goods are processed or inseparably combined with other items not belonging to us, we shall acquire the co-ownership regarding the new object in the proportion of the invoice value of the goods to the other processed or mixed items at the time of processing.



- d) If our ownership right expires because of combination or mixing, the purchaser shall already now assign to us the ownership rights in the new stock or the object to which the purchaser is entitled to the extent of the invoice value of the reserved goods and shall store them for us free of charge. The co-ownership rights arising afterwards shall be considered as reserved goods within the meaning of letter a).
- e) The purchaser may only sell the reserved goods in the ordinary course of business at its usual terms of business and as long as the purchaser is not in default, provided that the receivables arising from the resale in accordance with letters f) and g) pass to us. The purchaser shall not be entitled to dispose of the reserved goods in any other way.
- f) The receivables of the purchaser arising from the resale of the reserved goods shall be assigned to us already now. They shall serve as security to the same extent as the reserved goods.
- g) If the reserved goods are sold by the purchaser together with other goods not delivered by us, the assignment of the receivable arising from the resale shall only apply in the amount of our invoice value of the respectively sold reserved goods. In the case of resale of goods in which we hold co-ownership shares in accordance with letter b), the assignment of the receivable shall apply in the amount of these co-ownership shares.
- h) The purchaser shall be entitled to collect receivables arising from the sale in accordance with letter e) and until we revoke said right. We shall have a right of revocation in the cases stated in clause 9 if the purchaser is in default of payment, if an application for opening insolvency proceedings has been filed or if the payments have been discontinued. In these cases, the purchaser shall be obliged to notify us of the assigned receivables and their debtors immediately, to provide any and all information required for the collection, to surrender the associated documents and to notify the debtors of the assignment.
- i) The purchaser shall not be entitled to assign the receivables in any case whatsoever.
If the value of the existing securities exceeds the secured receivable by a total of more than 20%, we shall insofar be obliged to release securities at our choice. The purchaser must immediately notify us of an attachment or any other impairment.

10. Liability for quality defects

- a) We shall be liable for the flawless production of the goods delivered by us in accordance with the agreed technical delivery specifications. In particular with a view to the intended use, the purchaser shall be responsible for the appropriate design taking into account the safety regulations, if any, the selection of the material and the required test procedures, the correctness and completeness of the technical delivery specifications and the technical documents and drawings handed over to us, as well as the design of the production equipment provided even if changes are suggested by us which are approved by the purchaser. Furthermore, the purchaser shall guarantee that property rights or other rights of third parties are not violated due to the information provided by the purchaser. The time of the passing of the risk shall be decisive for the contractual condition of the goods.
- b) We shall not be liable for insignificant deviations from the agreed quality, in the case of insignificant impairment of the usability and for defects which arise due to the unsuitable or improper use, defective assembly and/or commissioning and the usual wear and tear. If the purchaser or third parties perform changes or repair work in an improper manner, we shall not be liable for these and the resulting consequences, either.
- c) The purchaser must report quality defects immediately after receipt of the goods at the place of destination in writing; hidden defects must be reported in writing by the purchaser immediately after discovery of the fault.
- d) In the case of the agreed final inspection or initial sampling inspection in accordance with clause 6, written notification of defects must be made immediately after discovery of the fault.
- e) We must be given the opportunity to determine the notified defect. In urgent cases where the operational safety is endangered or in order to avert unreasonably great damage of the purchaser, we must immediately determine the notified defect. Goods complained about must be sent back to us immediately upon request. If the purchaser fails to meet these obligations or makes changes to goods already complained about without our consent, the purchaser shall forfeit any rights based on a quality defect.
- f) After a justified notification of defects in due time, we shall rectify the goods complained about or deliver a flawless replacement (supplementary performance) at our option.
- g) If we fail to meet our warranty obligations or if we fail to meet them within a reasonable period or if the supplementary performance at first remains without success, the purchaser can set a final period in writing during which we must meet our obligations. The setting of a period shall not be required if it would be unacceptable for the purchaser. After the futile expiry of that period, the purchaser can request at its choice the reduction of the price, withdrawal of the contract or performance of the necessary rectification itself or by a third party at our costs and risk. If the rectification has been successfully carried out by the purchaser or a third party, all claims of the purchaser shall be compensated for with the reimbursement of the costs incurred hereby.
- h) Claims of the purchaser due to the applications required for the supplementary performance which result from the relocation of the goods to a different place after the delivery shall be excluded to the extent that they increase the expenses, unless the relocation corresponds to the use for the intended purpose.
- i) Legal claims of recourse of the purchaser against us shall only exist insofar as the purchaser has not made any agreements in excess of the statutory claims based on defects with its customer.
- j) Further claims of the purchaser shall be excluded in accordance with clause 13.
- k) The purchaser shall have to furnish proof of a defect.

11. Order-related production equipment, parts to be cast-in

- a) Order-related production equipment such as patterns, moulds, core boxes, gravity dies, casting dies, devices and control gauges provided by the purchaser must be sent to us free of charge. The compliance of the production equipment provided by the purchaser with the contractual specifications or drawings or samples provided to us will only be checked based on express agreements. We may change production equipment provided by the purchaser if we consider this to be necessary for technical casting reasons and the item is not changed due to that.
- b) The purchaser shall bear the costs for the change, maintenance and the replacement of its production equipment.



- c) The production equipment shall be treated and stored by us with the same care we usually apply with regard to our own matters. We shall not be liable for the accidental loss or deterioration of the production equipment. We can return any production equipment of the purchaser no longer needed by us at the expense and risk of the purchaser or we can store them at the usual costs and destroy them after setting a reasonable period and threatening the destruction if the purchaser fails to meet our request to fetch them within a reasonable period.
- d) Order-related production equipment which is manufactured or procured by us on behalf of the purchaser shall remain our property even if the costs are charged on a pro-rata basis. They will be stored by us for a period of 3 years after the last casting. We shall not be obliged to take out insurance.
If it is agreed, in deviation from para. 1, that the purchaser shall become the owner of the equipment, the ownership shall pass to the purchaser upon payment of the agreed price or share of costs. The handover of the equipment shall be replaced by our safekeeping duty. The storage arrangement can be terminated by the purchaser two years after the passing of the risk at the earliest, unless an important reason is given.
- e) The purchaser can only assert claims under copyright or industrial property rights insofar as the purchaser points to the existence of such rights and expressly reserves them.
- f) If a piece of production equipment is used which can only be employed once and if rejects are created as a result, the purchaser must either provide another piece of production equipment or must bear the costs of the replacement equipment.
- g) Any parts that are to be cast-in must be delivered to us by the purchaser in the exact size and in a flawless condition. The purchaser must provide replacement for any parts that become unusable due to rejects free of charge.

12. Confidentiality

- a) Each contracting party shall exclusively use all documents (including samples, patterns and data) and any know-how which such party obtains due to the business relationship for the mutually pursued purposes and shall maintain their secrecy towards third parties with the same care as for corresponding own documents or know-how if the other contracting party designates such documents and know-how as confidential or has an obvious interest in keeping them secret.
- b) This obligation shall commence upon the initial receipt of the documents or know-how and shall end 36 months after the end of the business relationship.

13. General limitation of liability

- a) Unless otherwise stipulated below, other and further claims of the purchaser against us for whatever legal reason, in particular due to a violation of the duties under the contract and under tort shall be excluded.
- b) This limitation of liability shall not apply to the extent of mandatory liability, for example under the product liability law, in the case of intention, gross negligence of the statutory representatives or executives and in the case of culpable violation of essential contractual duties. In the case of culpable violations of essential contractual duties, we shall only be liable for the damage that is typical for the contract and reasonably foreseeable, except in the case of intention or the gross negligence of our legal representatives or executives. It shall also not apply to damage arising due to the injury to life, body or health and in the case of absence of a guaranteed quality, if and to the extent that it is the exact purpose of the guarantee to secure the purchaser against damage not arising to the delivered goods themselves.
- c) To the extent that our liability is excluded or limited, this shall also apply to the personal liability of our employees, personnel, staff, statutory representatives and assistants.
- d) Claims for damages and claims based on quality defects to which the purchaser is entitled against us shall come under the statutes of limitation within one year after delivery of the goods to the purchaser. This shall not apply to the extent that the law stipulates longer periods in §§ 438 para. 1 no. 2 (buildings and things usually used for buildings) and 479 para. 1 (recourse claims) BGB *German Civil Code* and in the cases of injury to life, body or health, in the case of an intentional or grossly negligent violation of duty of the supplier and if a defect is fraudulently concealed. Statutory regulations regarding the suspension of expiry, suspension and re-start of the time limits shall remain unaffected.
In the case of claims for damages under the product liability law, the statutory statutes of limitations shall apply. The statutory limitation regulations shall also apply in the case of intentional and grossly negligent violations of duty.

14. Place of performance and place of jurisdiction

- a) If the purchaser is a merchant, the place of jurisdiction shall be Gummersbach. However, we shall also be entitled to sue the purchaser at the court of its registered seat.
- b) Unless otherwise stipulated in the order confirmation, the place of performance for our services shall be Runderoth. The place of performance for payment obligations shall be Runderoth.

15. Applicable laws

The legal relationships between the parties shall exclusively be governed by German law, excluding the UN Sales Convention (UNCITRAL/CISG). In particular, the application of the United Nations Convention on the International Sale of Goods on the basis of a special agreement or arising out of a provision in the terms and conditions of the purchaser is rejected.

16. Severability clause

If individual provisions of these terms of delivery and payment are ineffective or invalid completely or in parts, the contracting parties shall undertake to consent to a regulation which achieves the meaning and purpose pursued by the ineffective or invalid provision to the greatest possible extent.

17. Partnership clause

The economic situation of the contracting parties, type, extent and duration of the business relationship, as well as the value of the goods should be taken into reasonable account in good faith for all compensation payments, in particular regarding the amount of the damage.

October, 2017 - Managing Directors