

I. Formation of contract

1. These general terms and conditions of sale shall apply for all present and future contracts concerning deliveries and other performances. With respect to direct sales, the conditions laid down in the price lists of the commissioned producer shall be applicable supplementarily. Buyer's purchase conditions shall not be recognized even if Seller does not expressly object to them again after receipt by Seller.
2. Seller's offers are not binding. Oral agreements and assurances given by Seller's employees shall only be binding upon Seller's written confirmation thereof.
3. The Incoterms 2010 shall be applicable in cases of uncertainty concerning the interpretation of trade clauses.

II. Price

1. 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.
2. Should taxes or other extraneous expenses included in the agreed price change or newly accrue later than four weeks after the conclusion of the contract, Seller shall be authorized to modify the price relative to the respective increase.

III. Payment and Set-Off

1. Payment shall be made without deduction of cash discounts so that Seller shall have disposal over the sum on the due date. Payment transfer costs shall be borne by Buyer. A right of retention and the authority to set-off by Buyer shall only exist insofar as Buyer's counterclaims are not disputed or have been determined to be final and conclusive.
2. In cases of failure to pay within the agreed payment term, the interest rates stated on Seller's price list may apply. Absent such, Seller shall calculate interest at a rate of the nine percent points above the base rate according to German law § 288 unless buyer proves lesser damages. Besides we are entitled to obtain from the debtor a fixed sum of € 40,00. The claim of additional damages, in particular additional expenses in connection with modifications to exchange rates and exchange rate guarantees shall be reserved.
3. Insofar as later circumstances become known which produce a material deterioration in Buyer's financial position and which jeopardizes payment to Seller, all payments shall become due and Seller shall be authorized to make any bills of exchange held immediately due, regardless of their maturity dates. Seller shall then also be authorized to make any outstanding deliveries only with payment in advance or with provision of sufficient security.
4. We shall be entitled, in agreement with all companies of the Carl-Spaeter-Group, to set off all claims we may have against the buyer, and to set off all claims which the buyer may, on any legal ground whatsoever, have against us or against the following companies: Carl Spaeter GmbH with domicile at Berlin, Duisburg, Hamburg, Hannover, Oberhausen, Bietigheim, Viernheim; die Carl Spaeter Vertriebs GmbH with domicile at Hagen; Carl Spaeter Südwest GmbH with domicile at Karlsruhe; C. Keltling Altona GmbH at Hamburg; von Aschenbach & Voss GmbH at Krefeld; F. Hackländer GmbH at Kassel; Peter Holzrichter GmbH at Wuppertal; Carl Spaeter Kunststoffhandel GmbH at Dortmund; Passavant & Zickwolff GmbH at Karben; Kähler Stahlhandel GmbH at Hamburg, SASTA Stahlgesellschaft mbH at Hartmannsdorf, Knapstein Stahlservice GmbH at Lennestadt and APS Innovative Brennschneidtechnik GmbH in Valluhn.

IV. Performance of Deliveries, Terms of Delivery and Delivery Dates

1. All obligations to deliver are conditioned on conforming and timely acquisition of supplies by Seller, unless the nonconforming or late delivery is caused by Seller.
2. Specifications concerning delivery times are approximate. Delivery times shall commence as of the date of Seller's confirmation of order and shall only apply after timely clarification of all details of the order and timely performance of all obligations by Buyer, as, for example, provision of all official certifications, provision of letters of credit and guarantees or payment of downpayments.
3. For the determination of compliance with delivery times, the time period as of dispatch from the producer's plant or our warehouse shall be authoritative. Delivery times shall be considered to have been met as of notification of readiness for shipment if the goods cannot be timely shipped through no fault of Seller.
4. Events of force majeure shall allow Seller to postpone deliveries for the period of the impediment and for a reasonable time necessary for adaptation. This shall also apply if such events arise during an existing delay. force majeure shall include actions affecting currency, trade policy and other sovereign measures, strikes, lockouts, operating shutdowns not caused by Seller (for example, fire, machinery and rolls breakdown, deficient raw materials or energy), obstruction of traffic routes, delays of import/customs clearance, as well as all other circumstances which, without fault on Seller's part, make deliveries and performances materially more difficult or impossible. It is hereby not relevant whether these circumstances affect Seller, the producer or a supplier.
5. Should, in consequence of the aforementioned occurrences, the performance of the contract become unreasonable for one of the contractual parties, such party can then declare the contract avoided.

V. Retention of Title

1. Goods delivered remain Seller's property until all performance of all contractual obligations stemming from the order, including possible bill of exchange claims.
2. Insofar as the validity of Seller's retention of title requires the cooperation of Buyer (for example registration), Buyer shall undertake all necessary actions to establish and preserve Seller's rights.
3. Should Buyer default in payment or not honour a bill of exchange at maturity, and not perform his obligation within an additional fixed period of time of reasonable length, Seller shall then be duly authorized to take back his goods and, in this case, to enter Buyer's premises for this purpose. Further, Seller can prohibit the sale, the processing, assembly with other goods and the removal of the delivered goods.

VI. Grade, Size and Weight, EN-Standarts and Certificates

Grade and size shall be determined pursuant to the EN-Standarts or, as the case may be, the works' standards ("Werkstoffblätter"). Insofar as no EN-Standarts or works' standards exist, the respective European Standards shall apply and, absent such, trade usages. In case of reference to EN-Standarts, works' standards or works' test certificates as well as specifications as to grade, size, weight and utility such characteristics shall not be regarded as being guaranteed.

VII. Inspection

Inspections shall comply with DIN/EN 10204. Should, through no fault of Seller, an agreed inspection of the material not take place, not be timely or complete, Seller shall be duly authorized to ship the goods without inspection or to store the goods at the expense and risk of Buyer and to assess such costs to Buyer.

VIII. Passing of Risks, Partial Deliveries, Continual Deliveries

1. The risk passes to Buyer at all contracts when the goods are handed to a forwarding agent or carrier, however at the latest when they leave the warehouse or the works, unless their loss or damage is due to an act or an omission caused by Seller's fault.
2. Seller shall be authorized to make partial deliveries in reasonable amounts. Slight modifications of the contractual amounts with deliveries of slightly more or less, common in the trade, shall be allowed.
3. With contracts concerning continual deliveries, requests for deliveries of goods should provide Seller with a classification of grades for approximately similar partial amounts; otherwise, Seller shall be authorized to make the determination according to Seller's reasonable discretion.
4. Should the contractual amounts be exceeded by the individual requests for deliveries, Seller shall be authorized but not obligated to make delivery of the surplus. Seller can charge for the surplus at the prices effective at the date of the request or, as the case may be, the date of the delivery.

IX. Remedies of the Buyer for Lack of Conformity of the Goods

For any lack of conformity of the goods Seller shall be liable to Buyer in accordance with the following provisions:

1. 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 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 one year after date of delivery.
2. After performance of an agreed inspection of the goods Buyer loses his right to rely on such lacks of conformity which were determinable at the time of the agreed type of inspection.
3. Should Buyer fail to allow Seller without delay to convince himself of the lack of conformity and should Buyer, in particular, upon demand, not promptly provide the defective goods or samples, then Buyer loses the right to rely on any lack of conformity of the goods.
4. With goods which are sold as substandard products and seconds ("Illa material"), no remedies shall be granted to Buyer with reference to the declared defects and those normally to be expected.
5. Unless otherwise provided in this section, articles 45 to 51 CISG shall apply in respect of Buyer's rights for lacks of conformity of the goods. Buyer's right to claim damage is exclusively governed by section X of these conditions.

X. Damages

1. Seller's liability for breach of contractual and extracontractual obligations, in particular resulting from nonperformance, delay, culpa in contrahendo and tortious acts - included Seller's responsibility for its managerial staff and any other person employed in performing its obligations - shall be restricted to damages caused by wrongful intent or gross negligence and shall in any case be limited to foreseeable losses in the meaning of Articles 25 and 74 CISG and damages characteristic for the type of contract in question.
2. Seller's liability for fundamental breaches of contract within the meaning of Art. 25 CISG, its statutory liability according to the Product Liability Law (Produkthaftungsgesetz of 15/12/89) as well as any liability resulting from non-fulfillment of implied or express warranties and conditions (= zugesicherte Eigenschaften) shall remain unaffected from the aforesaid limitation of liability.

XI. Place of Performance, Jurisdiction, Applicable Law and Applicable Version

1. Insofar as not otherwise agreed, the place of performance for Seller's deliveries as deliveries ex works shall be the producer's plant; for all other deliveries, Seller's warehouse. The courts and authorities of the domicile of our company shall have jurisdiction over all controversies that may arise. Seller may also sue Buyer in Buyer's jurisdiction.
2. All legal relationships between Seller and Buyer shall be governed by the laws of the Federal Republic of Germany inclusive of the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980.
3. In cases of uncertainty the German version of these terms and conditions of trade are authoritative. At request Seller will place the German text at Buyer's disposal.