

Regalbuto Steel GmbH

General Terms and Conditions of Purchase (Edition May 2011)

I. Scope of application

1. These General Terms and Conditions of Purchase shall apply to all purchase orders for goods or services and their execution. Any Seller's terms and conditions in derogation hereof will not be accepted by us unless these General Terms and Conditions or the contract with the Seller specify otherwise. If we take delivery of the goods without expressly objecting to, this shall not be construed to be an acceptance of any such Seller's terms and conditions.
2. Any oral agreements made by or with our employees will not bind us unless and until confirmed by us in writing.
3. Quotes and offers shall be prepared free of charge to us and not bind us.
4. Drawings, models, designs and other documents provided to the Supplier or produced by him to our specifications may only be used to draw up the quotation and to deliver the ordered goods. They must be returned to us immediately on demand, upon completion of our request or delivery of the ordered goods.
5. Commercial clauses shall be interpreted pursuant to the INCOTERMS as amended from time to time.

II. Prices

1. Agreed prices shall be fixed prices free point of destination. Goods shall be invoiced excluding packing.
2. Prices quoted "free point of destination," "free place of destination" or other "delivered free" clauses shall include freight and packaging. Packaging will not be paid unless expressly agreed upon. In such cases, 2/3 of the invoiced packaging costs shall be credited if the packaging is returned freight prepaid to the place of dispatch.

III. Delivery item

1. Our order shall determine the content, nature and scope of the goods to be delivered.
2. The drawings, specifications etc. associated with the order shall be binding on the Supplier; however, he should check them for possible discrepancies and inform us immediately in writing of any errors found or suspected. The Supplier shall bear sole responsibility for drawings, plans and specifications produced by him, even where they have been approved by us.

IV. Payment

1. Invoices shall be submitted in quintuplicate by separate mail (i.e., not included with the consignment) promptly after delivery of the goods or provision of the services. Payment shall be subject to the correctness of the invoices and the contractual quality of the goods and services concerned. Unless agreed otherwise, payment shall be due within 8 days of receipt of the delivery item and the invoice with a 3% discount, or within 14 days with a 2% discount, or by the end of the following month with no discount, the means of payment to be specified by ourselves. Inspection or acceptance documents specified in the order shall be considered part of the complete delivery.
2. Invoices received late will throughout be paid by end of the month succeeding invoice receipt, on unchanged terms and without any interest refund, deducting any additional costs for late invoice receipt (in particular the costs for bank guarantees we may have furnished).
3. Payment or cash discount periods will commence with the date of invoice receipt, however, not before the receipt of the goods or the acceptance of services, and not until any contractually agreed documentation, test certificates (e.g. mill certificates) or similar documents have been delivered to us.
4. We are entitled to offset/retaining liens within the statutory scope.
5. The seller shall not assign his receivables or collect his receivables by a third party without our prior written consent which shall not be withheld unreasonably. In case the Seller assigns his receivables to a third party contrary to sentence 1, the assignment is valid. However, we are entitled to pay either to the Seller or to the third party with the effect of discharging us from our obligation.

V. Delivery dates/delayed delivery/passage of risk

1. The agreed delivery dates shall be strictly observed. Part shipments will be subject to our written consent. Any impending delays in delivery shall be promptly communicated in writing to us, proposing suitable counteractions to avert repercussions of the delay. Excess or short shipments (pipes: -0 meter/+1 random length, fittings and flanges: +/- 0 pieces) will only be permitted as customary in trade.
2. Unless otherwise agreed in writing, the delivery time commences with the date of the legally binding purchase order.
3. All shipping documents, operating instructions and other certificates forming part of the Seller's obligations shall be sent to us at the shipment date. If delayed delivery by the Seller (including late transmittal of the aforesaid documents) causes any payment collateral to expire, we will not pay until payment has been received from our customer.
4. Any default by the Seller on the performance of his obligations shall entitle us to all legal rights and remedies. In particular, we shall be entitled to claim damages in lieu of performance after the futile expiration of a reasonable extension granted by us. Our right to claim performance of the contract shall not expire until after the Seller has paid the damages in full.
5. Without prejudice to the aforesaid, in the case of any delay in delivery for reasons attributable to the Seller, the Seller shall pay us a penalty equivalent to 0,5% of the purchase price for each week of delay or fraction thereof, up to the aggregate maximum of 5%, unless otherwise agreed. If we name, and the Seller accepts, a specific vessel for the shipment of the goods, the Seller shall, notwithstanding the aforesaid, bear all charges for demurrage, dead freight, etc., if the goods are for whatever reason shipped not at all or late.
6. Any early delivery made without our consent will not affect the term of payment, which hinges on the scheduled date of delivery.
7. If in case of force majeure, strike or lockout, performance of our contractual obligations is frustrated or materially impeded, we may cancel the contract wholly or in part or demand that the contract be performed at a later date, without entitling the Seller to any claims against us.
8. The Seller may only claim the non-receipt of any documents we are obligated to furnish if he has not received them even after a written reminder.
9. The Seller shall bear the risk of accidental loss and deterioration until the goods are physically delivered at the place of destination; this includes shipments "delivered free" and "free place of destination".

VI. Production checks/final inspections

1. We reserve the right to check the quality of the materials used, the accuracy of dimensions and quantities and the general quality of the parts to be produced both during manufacture and before delivery, and to confirm compliance with the other requirements of the order in the factories of the Supplier and his own Sub-Suppliers.
2. Where we have reserved the right to carry out a final inspection of the completed delivery item in the factory of the Supplier, or to request such an inspection by a third party, readiness for the final inspection must be notified to us and the third party in writing 14 days in advance, unless agreed otherwise. The material costs of production checks and final inspections shall be borne by the Supplier.
3. Where we have specified a final check on the completed delivery items by a third party, the Supplier must arrange for the final inspection to be carried out by the third party at no cost to ourselves, and send us the results of the inspection immediately, or at the latest with the shipping documents.
4. The production checks and the final inspection shall not exempt the Supplier from his duty to perform or from his warranty commitments.

VII. Reservation of title and ownership

1. In respect of the Seller's right to retain title and ownership, the Seller's terms and conditions shall apply provided that title to the goods passes to us when such goods have been fully paid for. Any extended reservation of title (pending payment of all debt balances outstanding under the business relationship with the Seller) shall not apply.
2. On the basis of the reservation of title and ownership, Seller may not claim return of the goods unless the Seller has rescinded the contract.

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VIII. Certificates of origin

The following shall apply in cases in cases where Seller makes any statements on the origin of the goods sold:

1. The Seller agrees to (i) permit any documentary evidence of origin to be verified by the customs authorities and (ii) provide all information and/or confirmations or endorsements that may be required.
2. The Seller will be obligated to indemnify us for any loss caused by a certificate of origin declared inappropriate or non-verifiable by the local authorities, unless any such consequential loss is beyond the Seller's control.

IX. Liability for defects

1. The Seller shall provide the goods or services free and clear of any defects and third-party rights, interests or liens.
2. The Seller is obligated to deliver only such goods and materials that are free of any indication of ionising radiation. The Seller is obligated to compensate all costs and damages resulting from a breach of this obligation.
3. The Seller waives and disclaims the defense of delayed notification of defect under the terms or Art. 377 German Commercial Code ("HGB").
4. If the goods or services are defective, we are entitled to the legal rights and remedies at our discretion. The expenses incurred for the purpose of subsequent performance (by repair or replacement) shall also be deemed to include any expenses of our customer. For any repaired or replaced goods, the warranty period shall recommence to run.
5. If any warranty claims are asserted against us after resale to a third party, the Seller shall indemnify and hold us harmless for and against any resultant loss or damage. In addition, the Seller agrees to treat any such warranty claim asserted against us by our customer as a claim directly asserted against the Seller himself.
6. The limitation period for our warranty claims shall commence with the date of delivery of the goods or acceptance of the services. The Seller's warranty and liability for defects from or in connection with the delivery of goods will expire two years after physical delivery of the goods. Claims arising from or in connection with the delivery of goods which are typically used for building proposes will become statute barred five years after physical delivery. In all other cases, the statutory periods shall apply.
7. On our account of performance of his contractual obligations, the Seller hereby assigns to us any and all rights and interests he may claim against his pre-suppliers in connection with the provision of defective goods or services. The Seller shall duly furnish us with all documents required by us to assert any such claims.

X. Place of performance, place of jurisdiction and applicable law

1. Unless otherwise agreed, place of performance for deliveries shall be our plant. The competent courts in Düsseldorf, Germany, shall have exclusive jurisdiction. Nevertheless we shall also be entitled to take legal proceedings against the Seller at his seat at our discretion.
2. All legal relations between the Seller and us shall be subject to German substantive law applicable to the legal relations between domestic parties in addition to these Terms and Conditions. The provisions of the Convention of Contracts for the International Sale of Goods (CISG) of April 11, 1980 shall be excluded.
3. The Seller, at his own cost and expense and without undue delay, shall ensure that all documents required for the effectiveness of the contract or order, e.g. export permits, licenses, approvals, etc. are available and remain valid while the order or contract is in progress. Failure by the Seller to meet this obligation shall entitle the Buyer to cancel or rescind the contract and claim damages from the Seller. The same shall apply if e.g. despite the Seller's efforts the required documents are (i) not granted within a period reasonably acceptable to the Buyer or (ii) withdrawn or become invalid while the order or contract is in progress.

XI. Severability and interpretation

1. Should any clause of these General Terms and Conditions of Purchase be partially or totally invalid, the balance of the Conditions shall remain unaffected. It is hereby agreed that the ineffective clause shall be replaced by such valid provision which is fair to both parties and which comes as close as possible to the economic purpose of the ineffective provision.
2. In case of differences of opinion regarding the interpretation of the English version, the German version takes precedence over the English version.