

Terms and Conditions
of Purchase
(last updated 11/2013)

of

Oetinger Aluminium WH GmbH
Oetinger Aluminium NU GmbH

§ 1
Scope of Application

1. The terms and conditions below exclusively apply to all our purchase orders of goods and services (hereinafter called “delivery item”) as well as to the conclusion of work contracts. The terms and conditions also apply to all future business relationships between the supplier and us without us having to refer to them again in each individual case; we will immediately notify the supplier of any amendments to our terms and conditions. Any deviating, opposing or supplementary terms and conditions of the supplier only apply if we expressly approved their validity in writing on a case-by-case basis. The terms and conditions only apply if the supplier is an entrepreneur (§ 14 German Civil Code [BGB]), a legal person under public law or a special fund under public law.
2. Our purchase orders and purchase order amendments are either sent by post or fax or email. Oral purchase orders and purchase order amendments are only binding if they are confirmed by us in writing. Individual agreements with the supplier made in specific cases (including collateral agreements, modifications or amendments) prevail over these conditions in any event.
3. All purchase orders or purchase order changes must be confirmed by the supplier in writing. If we have a constant business relationship with the supplier, the contract is concluded upon acceptance of the purchase order or, if the supplier does not respond to the purchase order, after the expiry of 2 weeks.

§ 2

Quality

1. The delivery item must correspond to the defined classification and the delivered goods must be in accordance with the sample.
2. Remnants from processing and/or scrap materials of different qualities must not be combined. Any adhering extraneous material and impurities will be determined by us after goods receipt and will be deducted in accordance with the findings in our plant. At its own costs, the supplier has to take back sorted out extraneous material.
3. At the time of transfer or acceptance, the delivery item has to correspond to the statutory provisions, in particular accident prevention regulations and the generally accepted safety and occupational health regulations applicable in each case and as they apply in the country in which the transfer or acceptance of the delivery item takes place. Unless otherwise agreed upon, models, moulds, tools, films and other documents that were produced or procured by the supplier solely for the fulfilment of the purchase order, will pass into our ownership upon payment of the agreed remuneration, even if they are in the supplier's possession. These items are to be handed over to us on request.
4. All documents and devices made available to the supplier for the production of the delivery item remain our property. The supplier must not use or copy them for other purposes or make them available to third parties. On request, they are to be returned to us including all copies. There is no right to retain them.
5. The supplier guarantees that delivered hardware and software are free from third-party rights and contain no copy protection, date locks, program locks or similar restrictive covenants. The supplier grants us a transferable right of use and exploitation of the delivered software that is unrestricted with respect to place or time.
6. The supplier is responsible for properly packing the delivery item. It has to be packed in such a way that damage in transit can be eliminated to a large extent. The supplier has to comply with the packaging and labelling requirements which

apply in the respective country to which the delivery item is being delivered as per contract. On request, the supplier has to take back the packaging at its own costs.

§ 3

Prices

1. Prices quoted by us are exclusive of the value-added tax applicable in each case, if any.
2. The agreed prices include the costs for packaging, customs and excise duties, insurance costs, costs for transport and unloading free place of performance. The place of performance is the place of destination as per purchase order.
3. Unless otherwise agreed upon, the payment term is 30 days after receipt of the invoice, goods receipt and approval. We are authorised to deduct a cash discount of 1 % for payments within 10 days.
4. The invoice must not be enclosed with the delivery but is to be submitted separately after delivery. Billing is exclusively based on the weights determined at our plants. In the case of wagon shipments, the weight determined on an official rail weighbridge by means of weighing the fully loaded and empty wagon upon entering the plant applies. If underweight is determined, weighing slips will be issued on request. Billing again is based on the findings in our plant after careful determination by us.

§ 4

Terms of Delivery and Delivery Time

1. If delivery terms and conditions are indicated in the purchase order, these are to be interpreted in accordance with the INCOTERMS in the version valid at the time the order is placed.
2. Delivery times agreed upon have to be adhered to in any case. Unless a delivery time has been agreed upon, delivery is to be made immediately upon conclusion of the contract.
3. As soon as the supplier has reason to assume that it will not be able to deliver on time, it must immediately notify us in writing stating the reasons and the expected duration of the delay.

4. If the delivery time is culpably exceeded, the supplier must pay a contractual penalty of 0.2 % per working day, however, no more than 5 % of the net order sum. We are entitled to demand the contractual penalty in addition to the performance and as a minimum amount of compensation owed by the seller pursuant to the statutory provisions; we explicitly reserve the assertion of further claims for compensation. If we accept the delayed delivery, we will assert the contractual penalty when making the final payment at the latest.

§ 5

Inspection of Defects, Claims for Defects, Third-Party Property Rights, Product Liability

1. The following inspections will be carried out by us within 10 working days after delivery of the delivery item:
 - identification check by means of labelling and shipping documents;
 - inspection for obvious defects and externally visible damages in transit;
 - estimation of the delivered quantity.

We will immediately report in writing any defects regarding the delivery item detected during the inspection or later. As for the rest, the supplier waives a further incoming goods inspection and the associated duty to examine the goods and give notice of defects.

2. If there are reasonable grounds for the delivery of the delivery item to a place where none of our authorised representatives is present, the supplier waives an examination of the delivery item. In such a case we are obliged to immediately report any defects in writing as soon as they become known to us.
3. By way of derogation from § 442 paragraph 1 sentence 2 German Civil Code [BGB], we are also entitled to unrestricted claims for defects if upon conclusion of the contract, the defect remained undiscovered as a result of gross negligence.

4. If the supplier has the delivery item produced or delivered by a third party, the supplier is responsible for the fault of the third party to the same extent as if it was its own fault.
5. The limitation period for claims for defects is 36 months unless the defects refer to deliverables for buildings. A timely notice of defects suspends the period of limitation until the supplier rejects the claim for defects.
6. The supplier ensures that the delivery item is free from third-party rights and claims and that no property rights or other third party rights are infringed due to reselling or processing of the delivery item.

If we are sued by a third party for infringement of such rights, the supplier will be obliged to indemnify us from these claims and measures of third parties.

7. Insofar as the supplier is responsible for a product damage, the supplier is obliged to indemnify us from any third-party claims for damages upon initial request, insofar as the damage originates from its domain and organisational area and the supplier is liable vis-à-vis third parties itself. In this connection, the supplier is also obliged to reimburse us for any additional costs pursuant to §§ 683, 670 German Civil Code [BGB] that we incur as a result of or in connection with claims by a third party including a recall campaign carried out by us. We will inform the supplier of the kind and scope of recall measures - to the extent possible and reasonable - and give it the possibility to make a statement.
8. If staff works for the supplier, also at the plant location defined by us, the supplier must make sure that the staff adheres to the applicable operational safety and accident prevention regulations. The supplier is obliged to employ, pay and insure the staff in accordance with the statutory provisions applicable for the plant location.

§ 6

Retention of Title

1. If the supplier retains title to the delivery item until the agreed price has been paid in full, the retention of title will be accepted by us, whereby the extended form of the so-called current account retention and multiple reservation (Kontokorrent- und Konzernvorbehalt) do not apply.
2. Any processing, mixing or combining (further processing) of items provided by the supplier will be performed for us. The same applies to any further processing of the delivery item by us so that we are deemed to be the producer and acquire the ownership of the product at the latest with the further processing in accordance with statutory regulations. We remain entitled to resell the delivery item in the proper course of business, even before the purchase price is paid by means of advance assignment of the receivables arising out of this. In any event this excludes all other forms of retention of title, in particular the extended and the assigned retention of title and the retention of title prolonged for further processing.

§ 7

Non-Disclosure

3. The supplier commits itself towards us to keep our trade and business secrets confidential and to maintain strictest secrecy towards third parties. Trade and business secrets are all notifications, information, plans, drawings, computations, technical/procedural expertise, design details, operating data, calculations and customer information, irrespective of whether they originate from us or one of our business partners, and irrespective of the data carrier on which they are stored, unless these are or become obvious.
4. The supplier may only disclose trade and business secrets to third parties if we give our written consent indicating the identity of the third party and the scope of the trade and business secrets.
5. If the trade and business secrets are stored on data carriers of whatever kind and the supplier acquires possession of these, they remain in our ownership. They are to be stored in a locked place and returned to us unrestrictedly at any time on our

request. Any right of retention to the data carriers is excluded.

6. The obligation to maintain confidentiality also continues to exist after the termination of our business relationship with the supplier and for as long as the trade and business secrets have not become generally known, a fact for which the supplier bears the burden of proof.

§ 8

Contract Termination

1. Notwithstanding our other rights, we are entitled to terminate the contract with immediate effect if
 - a) the supplier is fully or considerably in default with two or more individual deliveries;
 - b) the supplier's financial circumstances deteriorate substantially and it is to be expected that it will no longer be able to permanently fulfil its obligations from the delivery contract.
2. In the event of termination, we are entitled to - using equitable discretion - either keep the delivery item that has already been delivered against payment of a proportionate consideration or to return it at the supplier's costs step by step in return for the payments already made by us. Furthermore we are entitled to claim compensation for partial or complete non-fulfilment of the contract.

§ 9

Final Provisions

1. The law of the Federal Republic of Germany applies to our legal relationships with the supplier; the applicability of the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.
2. The supplier commits itself to comply with the relevant statutory regulations on dealing with employees, environmental protection and occupational safety. Furthermore, the supplier will respect the "Ten Principles of the United Nations Global Compact Initiative (Davos 01/99)" and the principles and rights defined by the International Labour Organization (ILO) in

the “ILSO Declaration on Fundamental Principles and Rights at Work and its Follow-up” (Geneva, 06/98).

3. For traders, legal persons and special funds under public law the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is the court in the district where we are based. However, we are entitled to file a suit at the court in the district where the supplier is based.
4. If a provision of this agreement is void, the validity of the other provisions remains unaffected thereof.