

GENERAL TERMS AND CONDITIONS

**OETINGER Aluminium GmbH
(Status 07/2022)**

§1 Validity

1. The following General Terms and Conditions apply exclusively to all offers made by us and to all contracts concluded with us. They shall also apply to all future contracts, even if no express reference is made to them but they have been received by our customer with an order confirmed by us. The General Terms and Conditions shall only apply if the Buyer is an entrepreneur (§ 14 BGB), a legal entity under public law or a special fund under public law.
2. If the customer places the order with us in deviation from our General Terms and Conditions, these shall also apply even if we do not object to the deviations and, for example, carry out the delivery to the customer without reservation in the knowledge of the customer's General Terms and Conditions. Deviations - in particular conflicting or supplementary general terms and conditions of the customer - shall only apply if they have been expressly confirmed by us in writing.
3. Individual agreements made with the customer in individual cases (including ancillary agreements, supplements and amendments) shall in all cases take precedence over these General Terms and Conditions. Amendments or supplements to the contracts concluded with us, also insofar as they are made with representatives, field staff or other agents, require our express written confirmation to be effective.

§2 Conclusion of Contract

1. All our offers, in particular those in catalogues, sales documents or on the Internet, are non-binding unless otherwise agreed in writing. They are legally to be regarded as an invitation to submit offers. Insofar as we have provided the customer with catalogues, technical documentation (e.g. drawings, plans, calculations), other product descriptions or documents, we reserve the property rights and copyrights.
2. Orders shall be deemed to have been accepted if they are either confirmed by us in text form or executed immediately after receipt of the order or on schedule. However, order confirmations are subject to a commitment to insure by our trade credit insurer. If the trade credit insurer refuses to insure the customer, we are entitled to withdraw from the contract without compensation. Withdrawal shall be effected within 2 weeks of receipt of the notification by the insurer that the customer is not insurable. For the timeliness of the declaration, its dispatch is decisive. The receipt of this notification shall be made credible to the customer in a suitable manner upon request.

3. If, within the framework of an ongoing contractual relationship, the trade credit insurer refuses to insure the customer further or reduces the sum insured, we shall be entitled to refuse to provide the services remaining to us from contracts already concluded until the counter-performance has been effected. The right to refuse performance shall not apply if the customer provides security.

§3

Delivery, Transfer of Risk

1. Delivery periods shall only commence after complete clarification of all details of execution, which are to be specified by the customer. Compliance with the delivery deadlines is subject to the customer's fulfilment of his contractual obligations.
2. If we are unable to meet binding delivery deadlines due to force majeure or due to events for which we are not responsible and which make delivery significantly more difficult or impossible for us (this includes in particular strikes, lockouts, official orders, transport disruptions, war or similar military conflicts, embargoes, pandemics and similar events, attacks on our IT system which could not be prevented despite reasonably expected security measures, etc., even if they occur at our suppliers or sub-suppliers, we shall inform the customer of this immediately and at the same time notify him of a reasonable new delivery deadline.
If the delivery is also not available within the new delivery period, both contracting parties shall have the right to withdraw from the contract in whole or in part; we shall reimburse any consideration already paid by the customer without undue delay. Insofar as we ourselves are not supplied through no fault of our own despite the prior conclusion of corresponding purchase contracts in compliance with commercial diligence, delivery periods shall be extended accordingly. Claims for damages, as well as any claim to an agreed contractual penalty, are excluded in this case. This does not apply if we are obliged to procure in an individual case. If the delay in delivery lasts longer than 3 months, the customer is entitled to withdraw from the contract.
3. We shall endeavour to comply with agreed delivery periods. If we culpably fail to meet delivery deadlines, the customer is obliged to set us a reasonable grace period. After fruitless expiry of the grace period, the customer may withdraw from the contract and/or claim damages instead of performance and/or reimbursement of its expenses. For the assertion of damage caused by delay or damage due to non-performance, § 6 shall apply accordingly. Partial deliveries are permissible to a reasonable extent.
4. Exceedances or shortfalls in quantities due to production and casting technology or customary in the industry are permissible to a reasonable extent.
5. Unless otherwise agreed, delivery shall be made on a CPT (named place of destination) basis in accordance with Incoterms as amended from time to time, currently 2020.
6. The risk shall pass to the customer, even if carriage paid delivery has been agreed, as soon as the goods have left our works or the customer is in default of acceptance. This also applies to partial deliveries. If dispatch is delayed for reasons for which the customer is responsible, the risk shall pass to the customer upon notification of readiness for dispatch.

7. Deliveries can be made from our plants in Weißenhorn and Neu-Ulm.

§4

Prices, Terms of Payment

1. Prices shall apply strictly net ex works including loading plus value added tax at the respective statutory rate.
2. Due to the currently very fluctuating prices for natural gas, electricity and oxygen, we currently only receive daily or weekly prices from our suppliers. We therefore ask for your understanding that, in view of the resulting dynamics, we are only submitting our offer without obligation. Should the purchase price for the above-mentioned substances change at the time of our procurement compared to the date of our offer, the price of an offer item containing this substance will change according to the weighting of its share in this item. This applies both in the event of a price increase and in the event of a price reduction. The entitlement to increase the price presupposes that we have made timely covering transactions in compliance with commercial diligence. We will inform you of the price increase in a timely manner, explaining the change in purchase prices and the effects on the respective offer item. If, as a result of the price adjustment due to this substance price clause, the offer price increases by more than 20% in total, the customer shall be entitled to terminate the contract. The notice of termination must be received by us within 4 weeks after receipt of the price increase request.
3. Unless otherwise agreed, our invoices shall be paid within 10 days with 1 % discount or within 30 days net, in each case after receipt of the invoice and delivery or acceptance of the goods.
4. The customer may only set off claims that are undisputed by us or have been established as final and absolute. Offsetting in the context of an ongoing legal dispute by the supplier is permissible provided that his claim is ready for a decision at the time of the declaration of offsetting.
5. The assertion of a right of retention due to disputed counterclaims or counterclaims that have not been legally established is excluded, unless these claims are based on the same contractual relationship.
6. Bills of exchange shall only be accepted on account of payment if agreed accordingly. Credit notes for bills of exchange and cheques shall be made subject to receipt less expenses with value date of the day on which we can dispose of the equivalent value.
7. Incoming payments shall be offset in accordance with § 366 para. 2 BGB.
8. We are entitled to assign the claims arising from the business relationship with our customer.
9. If the customer is in default with any payment obligations towards us, all claims existing towards the customer shall become due for payment immediately.

§5

Notice of defects, liability for defects

1. The customer's claims for defects are subject to the condition that the customer has fulfilled its statutory obligations to inspect and give notice of defects (§§ 377, 381 HGB). In particular, the customer must immediately inspect the received goods for defects and quality and immediately notify us in writing of any recognizable defects, otherwise the customer's claims for defects shall lapse. If the customer discovers a defect, he may not dispose of the goods, i.e. they may not be divided, resold or further processed.
2. Details of quality, e.g. dimensions, weight and other technical details, are only to be understood as a description of quality and do not imply the assumption of a guarantee.
3. In the event of defects or lack of a quality specification of the delivered goods, we may, at our discretion, remedy the defect (rectification) or deliver a defect-free item (subsequent delivery).
4. The buyer must give us the time and opportunity necessary for the subsequent performance owed, in particular hand over the goods complained about for inspection purposes. We may, at our discretion, demand that the defective goods be sent to us or to persons commissioned by us for reworking or replacement or that the subsequent improvement be carried out by us or by persons commissioned by us at the place where the goods are stored. The customer shall be entitled to the latter if he cannot reasonably be expected to send the defective goods to us. The expenses necessary for the purpose of inspection and rectification (in particular transport, labour and material costs, but not dismantling and installation costs) shall be borne by us if there is actually a defect. This does not apply to increased expenses incurred because the goods were taken to a place other than the customer's domicile or commercial establishment after delivery, unless the transfer corresponded to the intended use of the item.
5. If we are not prepared or not in a position to carry out the rectification or replacement delivery or if we do not carry out the necessary activities within a reasonable period of time for reasons for which we are responsible, if this is unreasonable for the customer or if this fails in any other way, the customer is entitled, at his discretion, to withdraw from the contract, to demand a reduction in the purchase price, compensation for damages or reimbursement of his expenses. Claims for damages are limited in accordance with the general liability regulations pursuant to § 6.
6. The limitation period for material defect claims is 12 months. It does not apply insofar as the law pursuant to § 438 para. 1 no. 2 BGB (buildings and objects for buildings), § 479 para. 1 BGB (right of recourse) and § 634 para. 1 no. 2 BGB (construction defects) provides for longer periods.

§6 General liability

1. Claims for damages by the customer - irrespective of the legal grounds - shall only exist,
 - a. if the damage was caused by a culpable breach of an essential contractual obligation the fulfilment of which is a prerequisite for the proper performance of the contract and on the observance of which the contractual partner regularly relies or may rely, or
 - b. if we have guaranteed a quality of the delivery item - even for a certain period of time – or
 - c. if damage has arisen from injury to life, limb or health, or
 - d. a damage is based on intent or gross negligence.

If we are liable pursuant to section 1 a) for the breach of a material contractual obligation without gross negligence or intent, the amount of liability shall be limited to the damage that we typically had to expect at the time of conclusion of the contract on the basis of the circumstances known to us at that time.

2. The above limitations of liability shall apply mutatis mutandis to actions as well as to the personal liability of our employees, representatives, vicarious agents and other agents.
3. The above limitation of liability shall not apply if we are liable under the Product Liability Act.

§7 Retention of Title

1. All delivery items remain our property until full payment of all our claims - including future claims - arising from the business relationship with the customer. In this respect, all deliveries shall be deemed to be one coherent delivery transaction.
2. The inclusion of individual claims in a current account or the striking of a balance as well as the recognition thereof shall not cancel the retention of title in all stages. If the customer includes a claim assigned to us from a resale of goods in a current account relationship existing with the customer, the current account claim is assigned to us in full. After balancing has taken place, the recognised amount shall take its place, which is assigned up to the amount of the original claim by us.
3. If the customer defaults on payment, we shall be entitled, after issuing a reminder, to demand the surrender of the reserved goods without prior withdrawal.
4. The processing or transformation of the goods shall be deemed to have been carried out for us. In this respect, we shall be deemed to be the manufacturer within the meaning of § 950 BGB.
5. In the event of processing with goods not belonging to the customer, we shall acquire co-ownership of the new item in the ratio of the value of the reserved goods to the value

of the other goods at the time of processing. If the goods subject to retention of title are combined, mixed or blended with goods not belonging to us in accordance with §§ 947, 948 BGB, we shall become co-owners in accordance with the statutory provisions. If the customer acquires sole ownership by combining, mixing or blending, he hereby assigns to us co-ownership in proportion to the value of the reserved goods to the other goods at the time of combining, mixing or blending. In these cases, the customer shall keep the goods co-owned by us, which are also goods subject to retention of title within the meaning of the above conditions, for us free of charge.

6. The customer is entitled to resell the reserved goods in the ordinary course of business. However, he already now assigns to us all claims in the amount of the value of the reserved goods with all ancillary rights until full payment of all our claims - including future claims - from the business relationship with the customer. The customer authorises us to collect the claim. We hereby accept the assignment.
7. The value of the reserved goods is the invoiced amount of the commercial invoice from us. If the resold goods subject to retention of title are co-owned by the customer, the assignment of the claim shall extend to the amount corresponding to the customer's share value in the co-ownership.
8. If the goods subject to retention of title are installed by the customer as an essential component in a real estate, ship structure or aircraft, the customer already now assigns the claims arising from the sale of the real estate, property rights, ship, ship structure or aircraft in the amount of the value of the goods subject to retention of title.
9. The customer is not entitled to pledge or assign as security the goods subject to retention of title before full payment.
10. The customer remains entitled to collect the assigned claims until revoked. As long as the customer meets his payment obligations towards us, we shall not make use of our right to collect. For justified reasons, the customer is obliged to name the debtor of the assigned claim to us, to notify the debtor of the assignment, without prejudice to our right to notify the customer of the assignment ourselves and to provide us with the information required to assert our rights and to hand over the necessary documents.
11. In the event of seizures or other interventions by third parties, the customer must notify us immediately in writing so that we can take legal action in accordance with § 771 of the German Code of Civil Procedure (ZPO). If the third party is not in a position to reimburse us for the judicial and extrajudicial costs of an action pursuant to § 771 ZPO, the customer shall be liable for the loss incurred by us.
12. In the case of a cheque/bill of exchange procedure, the retention of title shall only cease to apply at all stages when the customer has fulfilled all his payment obligations to us.
13. The customer is obliged to insure the delivery items against natural hazards at his own expense until the acquisition of unconditional ownership. The customer's claims against his insurance company shall be deemed to have been assigned to us for the case of damage up to the amount of the outstanding claim.
14. If the realisable value of the securities exceeds our claims by more than 20 %, we shall release securities of our choice at the customer's request.

§8 General

1. The law of the Federal Republic of Germany shall apply exclusively to all legal transactions concluded between the parties, but excluding the UN Convention on Contracts for the International Sale of Goods (CISG).
2. We undertake to comply with the respective legal regulations on the treatment of employees, environmental protection and occupational safety. Furthermore, we will observe the "Ten Principles" of the UN Global Compact Initiative (Davos 01/99) as well as the principles and rights laid down by the International Labour Organization (ILO) in the "ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up" (Geneva, 06/98). We will also oblige our suppliers to comply with the provisions mentioned in § 8.2 sentence 1 and sentence 2.
3. The place of performance is the place where our registered office is located.
4. For merchants, legal entities and special funds under public law, the court in whose district our registered office is located shall have exclusive jurisdiction for all disputes arising directly or indirectly from this legal relationship. However, we are also entitled to take legal action at the court in whose district the customer has his registered office.
5. We are entitled - to the extent permitted by law - to pass on the customer's data to third parties for the purposes of corporate financing and accounts receivable management.
6. Should individual provisions of these General Terms and Conditions be or become invalid, this shall not affect the validity of the remaining provisions. Insofar as the ineffective provisions contain an effective appropriate part, this shall be maintained. The contracting parties shall agree on a substitute provision which takes into account the interests of both parties.

