
1. Scope and Subject Matter of the Contract

- a. Exclusively only our terms and conditions of sale shall apply; we do not accept any of the Buyer's terms or conditions that are in conflict with or deviate from our terms and conditions of sale unless we expressly agree to such other terms and conditions in writing. Our conditions of sale shall also apply where we make a delivery to the Buyer despite being aware of the Buyer's terms and conditions that are in conflict with or deviate from our terms and conditions of sale.
- b. All arrangements between us and the Buyer for the performance of this Contract shall be set out in writing herein.
- c. Our terms and conditions of sale shall also apply to all future transactions with the Buyer.
- d. These terms and conditions of sale apply only to companies, legal entities under public law or special property funds under public law.

2. Offer – Offer Related Documents

- a. An order constitutes a binding offer that we may accept within two weeks. The offers submitted by us are non-binding.
- b. Drawings, illustrations, dimensions, weights or other data concerning performance shall only be binding if expressly agreed in writing. We are not liable for the errors resulting from the documents submitted by the Buyer.
- c. Initial samples shall only be created or provided at the Buyer's request and shall be charged for separately. We reserve the right to make design modifications at any time.
- d. Our employees are not authorized to enter into any verbal side arrangements or give verbal guarantees of quality that go beyond the content of the order confirmation.
- e. We reserve all rights, including intellectual property rights, in our illustrations, drawings, calculations and other documents; they may be disclosed to third parties subject to our express written consent. They shall be returned to us immediately upon completion of the order with no special request being required.
- f. We will keep the Buyer's documents throughout the order term. If the Buyer does not request their return after the order has been completed, we will destroy those documents after next six months.

3. Prices

- a. Our prices are EXW (INCOTERMS, 2020 Revision) without packing according to the respective quotation.

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- b. If there is a demonstrable increase in costs after entering into the Contract due to, in particular, wage agreements or changes in prices for materials, we may reasonably change our prices. If our subsequent price is more than by 10 % above the agreed price, the Buyer may withdraw from the Contract in writing immediately after being informed about the price.
 - c. Our prices are exclusive of statutory VAT. VAT shall be calculated in any given invoice separately at the statutory rate applicable as at the invoice date.
 - d. If, at the Buyer's request, delivery is delayed for more than one month after our notification of readiness for shipment, we may charge the Buyer a storage fee amounting to 0.5% of the purchase price for each commenced month up to 5% in total a maximum. Evidence of higher or lower storage costs is admissible.

4. Payment Terms

- a. The purchase price shall be payable within 8 days from the invoice date with a 2% discount or net (without any deductions) within 30 days. Different payment terms require a separate agreement in writing.
- b. Notwithstanding anything to the contrary, we shall be entitled to set off payments against the Buyer's older debts first and shall inform the Buyer of any setoff that takes place. Where we incur any expenses or interest, we shall be entitled to use the payment first to cover the expenses, then to cover the interest and finally, to settle the principal.
- c. A payment is only deemed to have been made when we can unconditionally dispose of the relevant amount.
- d. If the Buyer gets in default as to any payment, we shall be entitled to claim interest at the rate of 10% per annum above the relevant base interest rate, with a minimum of 10% per annum as liquidated damages. Consequently, the interest rate is to be set lower if the Buyer proves a lower burden; our proof of higher damages shall be admissible.
- e. If we become aware of any circumstances that call into question the Buyer's creditworthiness, in particular, enforcement measures due to the Buyer's liabilities, the Buyer's cessation of payments, or the Buyer's impending over-indebtedness, we shall be entitled to declare the entire remaining debt due and payable. In such a case, we shall also be entitled to require advance payments or the provision of a security.
- f. The setoff rights shall only accrue for the Buyer if their counterclaims are legally established, undisputed or recognized by our company. Furthermore, the Buyer shall be entitled to exercise the right of retention only if their counterclaim is based on the same contractual relationship.
- g. If the Buyer wrongfully withdraws from an order, we may claim 10% of the sale price to cover the costs of processing the order and lost profit; this shall be without prejudice to the possibility to claim higher actual damage. The Buyer reserves the right to prove that the damage was lower.

5. Delivery Term

- a. Delivery terms or deadlines, which may be agreed as binding or non-binding, shall be agreed in writing.
- b. The delivery term shall commence upon the dispatch of the order confirmation unless otherwise agreed.
- c. Compliance with our obligations is conditioned by the timely and proper fulfilment of the Buyer's obligations, clarification of all technical issues and our timely assurance of our own supplies. The objection involving a failure to comply with the Contract shall remain preserved.
- d. We are entitled to execute partial deliveries.

6. Force Majeure

War, civil war, export or trade restrictions due to political situation changes as well as strikes, lockouts, interruptions, operating restrictions, etc., i.e. the Events that prevent us from performing or are unacceptable for the performance of the Contract are considered *force majeure* and shall relieve us of the obligation to provide timely performance throughout their duration. The parties shall inform each other about such a situation and adapt their obligations in good faith to the changed circumstances.

7. Risk Transfer - Packaging Costs

- a. Our prices are EXW (INCOTERMS, 2020 Revision) according to the respective quotation.
- b. The risk shall pass onto the Buyer upon the notice of readiness for dispatch; as concerns the deliveries with the transportation fees paid in advance, the goods shall be deemed to be handed over to the Buyer when the goods leave the Supplier's facility.
- c. Transportation and other packaging complying with the Packaging Ordinance shall not be returned. The Buyer shall arrange the disposal of the packaging at their own expense.

8. Liability for Defects; Complaint Related Obligations; Additional Performance

- a. We shall bear the liability for compliance of delivered items with their specifications during their use in compliance with the Contract and that they are free of any defects that may reduce their value or substantially affect their utility value.
- b. The initial samples, if any, submitted by us to the Buyer for a check shall be decisive for determination of the quality and workmanship level of the delivered items. The workmanship level usual in the relevant area shall apply. If no quality data, in particular finish quality or dimension accuracy, are provided in enquiries and orders or in accompanying drawings, the delivered items shall be suitable for normal use.
- c. In production, it is not possible to keep exact quantities. In any case, the right to over- or under-supplies of up to 10% of the ordered quantity is reserved.

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- d. Obvious defects that could be noticed immediately by an ordinary buyer shall be notified to us in writing by the Buyer within 5 working days from the delivery and this even in the case of partial deliveries. The defects that are not obvious shall also be reported to us within 5 working days of their discovery and no later than within one year from the delivery, failing which no claim can be made in respect of such defects. Defects should be reported in as much detail as possible (e.g. via error logs).
 - e. All defective delivered items shall be repaired or replaced at our discretion and this free of charge and within a reasonable period of time to be determined by us. The decision is entirely up to us.
 - f. If it is necessary to send any delivered item for repair, the Buyer shall agree with us in advance and in writing the selected method of transportation.
 - g. Where the Buyer requests additional work to be performed at a location other than the place of performance, we may comply with this request and calculate the related increase in costs.
 - h. If we fail to remedy a defect within the reasonable period of time determined for us, the Buyer may demand a price reduction or may withdraw from the Contract in compliance with legal terms and conditions. A reasonable additional period of time is the period of time that corresponds to the normal business practice of the average supplier.
 - i. Liability for defects shall not apply to normal wear and tear or damage that occurs due to improper or negligent handling, excessive strain or special external influences not covered by the Contract, which take place after the risk has passed. In case of unauthorized changes or repair by the Buyer or any third party, we shall not be liable for any resulting defects and consequences.
 - j. The time limitation applicable to the claims under the liability for defects is twelve months from the transfer of risk; as concerns additional performance, the time limitation commences on the day determined by law except for the claims under the liability for damage, other liability of the manufacturer, or willful misconduct, gross negligence, lack of guaranteed quality or violation of material contractual obligations and, in particular, threat to life, personal injuries, and harm to health. A contractual obligation shall be deemed to be material where its fulfilment conditions due performance of the Contract and on the compliance with which the contractual partner may regularly rely.
 - k. Other defect liability claims against us or our agents on the part of the Buyer are excluded; no. 9 (other guarantees) shall remain unaffected.

9. Other Guarantees

- a. The Buyer's claims for damage compensation - regardless of any legal justification - are excluded. This shall not apply where a guarantee is obligatory under the law on liability for damage, the manufacturer's other liability or in cases of willful misconduct, gross negligence, lack of guaranteed quality or breach of basic contractual obligations, as well as in cases of a threat to life, personal injuries or harm to health. A contractual

obligation shall be deemed to be material where its fulfilment conditions due performance of the Contract and on the compliance with which the contractual partner may regularly rely.

- b. Damage compensation in connection with a breach of material contractual obligations is limited to the foreseeable damage typical for the Contract, unless there is willful misconduct or gross negligence, and this up to EUR 2 000 000 for a personal injury and EUR 1 000 000 for property damage per each damage event; we shall not be liable for non-performance resulting from the use of the delivered items, lost profits, loss of savings, indirect damage, and consequential damage. The limitations do not apply where the damage is covered by our liability insurance. We undertake to maintain the cover effective at the time of entering into the Contract.
- c. In case of delayed delivery, the Buyer may - provided that they incur damage due to that and can prove it – request compensation for each whole week of delay at the rate of 0.5%, but up to 5% a maximum in total, of the price for the part of the delivery that could not be put to its intended use due to the delay.
- d. The time limitation applicable to the claims for damage compensation is twelve months from the rise of the entitlement except for the claims under the liability for damage, other liability of the manufacturer, or willful misconduct, gross negligence, lack of guaranteed quality or violation of material contractual obligations and, in particular, threat to life, personal injuries, and harm to health. A contractual obligation shall be deemed to be material where its fulfilment conditions due performance of the Contract and on the compliance with which the contractual partner may regularly rely.
- e. The change in the burden of proof to the Buyer´s disadvantage is not related to preceding provisions.
- f. Where compensation for damage against us is excluded or limited, it shall also apply to personal liability for damage on the part of our employees, workers, co-workers, agents and fiduciaries.

10. Reservation of Title

- a. We reserve the title to the subject matter of delivery until receipt of all payments under the business relationship. If the Buyer acts contrary to the Contract and, in particular, defaults as to any payment, we shall be entitled to take the subject matter of delivery back. Our taking back of the subject matter of delivery shall not constitute a withdrawal from the Contract unless we expressly declare it in writing. Confiscation by us of the subject matter of delivery shall always mean the withdrawal from the Contract. After taking back the subject matter of delivery, we shall be entitled to sell it and to set off the proceeds of the sale against the Buyer's liabilities less reasonable costs of sale.
- b. The Buyer shall insure the subject matter of delivery at the value of new items and at their own expense against the damage caused by fire, water and theft. At the same time, the Buyer is hereby assigning all claims for compensation under such insurance to us. The company hereby accepts the assignment. The Buyer shall carry out the necessary maintenance work on the subject matter of delivery in a timely manner and at their own expense.

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- c. The Buyer shall inform us in writing about any distraint or other third-party actions to enable us to bring an action in compliance with Section 771 of ZPO. If the third party is unable to pay us the court and out-of-court costs of the litigation in accordance with Section 771 of ZPO, the Buyer shall be liable for the damage incurred by us.

 - d. The Buyer may resell the delivered item in the ordinary course of business; they thereby assign to us all resale-based claims up to the invoiced amount (including value added tax) arising for the Buyer against their customers or third parties, irrespective of whether the delivered item has been resold without processing or after processing. The Buyer shall remain entitled to enforce such claims even after the assignment. This shall be without prejudice to our right to enforce the relevant claim. However, we will not enforce the claim as long as the Buyer complies with their payment obligations from the proceeds received, they are not in default as to payments and, in particular, there are no signs of insolvency on their part. If any of those situations occurs, we may require the Buyer to notify us of the assigned debts and their debtors, to draw up all records necessary for enforcement, to submit relevant documents and to notify the debtors (third parties) of the assignment.

 - e. The Buyer processes or transforms the subject matter always for us. If the subject matter of delivery is processed with other items that do not belong to our company, we acquire the co-ownership title to the new item at the time of processing and this proportionally to the ratio between the value of the delivered item (purchase price exclusive of VAT) and other processed items. As concerns any item created through processing, it shall be subject to the same rules that apply to the delivered item subject to retention of title.

 - f. Where the delivered item is inseparably combined with other items not belonging to our company, we shall acquire the title to the new item at the time of their combination and this proportionally to the ratio between the value of the delivered item (purchase price inclusive of VAT) and other processed items. Where the Buyer's item is deemed to be the main item, the Buyer shall transfer the co-ownership to us. The resulting exclusive title or co-ownership title shall be transferred by the Buyer to us.

 - g. The Buyer shall also assign other claims to us as a security for our claims against the Buyer; such claims shall be the claims that arise against a third party due to the attachment of the delivered item to a piece of land.

 - h. At the Buyer's request, we undertake to release our securities when the realizable value of our securities exceeds the secured receivables by more than 20%; the choice of the securities to be released rests with us.

11. Tools

- a. We charge the Buyer for the tools that are made to fulfil their order as follows: 1/3 of the total amount upon order confirmation, another 1/3 upon submission of initial sample, and the last 1/3 upon release for series production. If no initial samples have been created, we will charge 1/3 of the total amount upon order confirmation and 2/3 upon release for series production.

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- b. Changes prior to tools manufacture made based on the Buyer's respective wishes/requests and resulting in a postponement of the initial sample submission or series production approval shall entitle us to claim immediate reimbursement of the tool manufacture costs already incurred with all payments made to be set off.
 - c. Where we keep the tools for 2 years after the order processing, the Buyer should not request their return according to the information provided to us in writing

12. Title

- a. The Buyer warrants that the drawings, plans and other documents sent to us by them will not infringe upon any third-party patents or other rights.
- b. Upon the first request, the Buyer shall hold us and our suppliers harmless in respect of all third-party claims arising from the exercise of such rights; we shall not enter into any agreement with a third party without the consent of the Buyer.
- c. The Buyer shall also indemnify us as concerns the costs that we inevitably incur as a result of or in connection with third-party claims.
- d. The limitation period for such claims is 10 years from the order confirmation.

13. Limitation of Own Claims

Our claims for payment are time-barred after five years. The start of the limitation period shall be determined in accordance with Section 199 of BGB.

14. Form of Declarations

Legally relevant declarations and notices that are to be submitted by the Buyer to us and any third party shall be executed in writing except for the above specified exceptions.

15. Governing Law

The contractual relationship and other business relations between us and the Buyer shall be governed exclusively by German law with exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

16. Miscellaneous

- a. The Buyer may only assign or transfer the contractual rights to third parties with our prior written consent.
- b. Should any provision be or become invalid, other provisions shall remain in force.
- c. The place of performance and payment is the registered office of our company.
- d. If the Buyer is a trader, a legal person under public law, a special property fund under public law or does not fall under the jurisdiction of a general court in Germany, the exclusive jurisdiction shall have the court

General Terms and Conditions of Sale
RBH Stahl-Edelstahl-Alurohr GmbH,
Ohmstraße 16/1, 70736 Fellbach
Business register number HRB 727452
Court of registration: Stuttgart District Court



competent according to the registered office of our company. However, we are also entitled to file an action against the Buyer at the place of the Buyer's registered office.