



STANDARD TERMS AND CONDITIONS OF PURCHASE OF ST EXTRUDED PRODUCTS GERMANY GMBH

§ 1 Scope

- 1.1 These Standard Terms and Conditions of Purchase shall apply to all of our – also future – inquiries and orders as well as to all of our – also future – supply agreements concluded with our suppliers and to any other agreements. Possible conditions of the supplier are herewith also contradicted in the event of these being communicated to us in a letter of confirmation or in any other way or in the case of us accepting any delivery or services offered by the supplier without contradicting the supplier's conditions once again.
- 1.2 For the interpretation of these Standard Terms and Conditions of Purchase their German version shall be deemed to be overriding, even if translations of these Terms and Conditions of Purchase are made available to the supplier or are signed by the parties.
- 1.3 Ancillary agreements, deviations from these Standard Terms and Conditions of Purchase as well as amendments thereto or the exclusion of these Terms and Conditions of Purchase shall not be valid and applicable unless made in writing.

§ 2 Inquiries, quotes, orders

- 2.1 Our inquiries shall be deemed to be non-binding. Our orders shall only be deemed binding on our part if and in so far we have placed these or confirmed these in writing.
- 2.2 If the supplier deviates from its quote in our inquiry, he shall be obliged to explicitly draw attention to such deviation. Quotes shall be submitted free of charge and shall not be deemed binding on our part. On-site inspections, finalising plans, drawings and comparable activities by the supplier shall not be remunerated without an explicit written agreement to this effect.

§ 3 Prices, payment

- 3.1 Agreed prices shall be deemed to be binding. In so far as no deviating regulation has been agreed upon, the prices shall be understood including the costs for packaging, transport, insurance, customs, taxes and any other duties. If the delivery is not effected as "carriage free" on the grounds of an agreement between the parties, the supplier shall take out a transport insurance at its own expense.
- 3.2 Invoices shall be submitted separately in triplicate and not together with the shipment of goods, specifying the respective destination, our order number and any other identification requested in the order.
- 3.3 Unless no deviating regulation is agreed upon, payments shall become due and payable within 30 days after receipt of the invoice. In the event of payment within 14 days after receipt of the invoice, we shall be authorised to deduct a discount of 3 %. If the invoice is received prior to receipt of the goods, the payment period for the invoice shall be determined by receipt of the goods. In so far as documentation, test certificates or similar documents are deemed part of the supply of work and

services, the afore-mentioned payment periods shall not commence prior to the documents having been presented to us according to the agreement.

3.4 We shall also be authorised to effect payments by means of wire transfer or cheque.

§ 4 Default of supplier, delivery

4.1 Agreed schedules and deadlines shall be deemed to be binding.

4.2 If circumstances arise which endanger a due and proper performance at the agreed period in time, the supplier shall inform us thereof without undue delay specifying the reasons for such delay.

4.3 By exceeding the agreed delivery time the supplier shall default even without any prior reminder, unless performance fails on the grounds of a circumstance which the supplier shall not have to justify. If the supplier defaults he shall bear any additionally incurred delivery costs itself.

4.4 If nothing to the contrary is agreed upon the goods shall be delivered "carriage free". The supplier shall bear the risk until the goods have been delivered/handed-over at their destination. With regard to payment the unit numbers, dimensions and weights determined at our production facilities shall be deemed decisive.

4.5 In so far as nothing to the contrary is agreed upon, the supplier shall ensure that the goods are packed with suitable packaging and shall bear the costs for such packaging itself. Our right to give instructions with regard to the packaging used in the event of a sale by delivery to a place other than the place of performance shall remain unaffected thereby. We shall be authorised to return the packaging material to the supplier at its costs and at its risk or to dispose of packaging material and charge the costs for disposal thereof to the supplier. No obligation to return or dispose of packaging material shall, however, exist. The terms and regulations vested in the Verpackungverordnung [Regulations on Packaging] shall remain unaffected.

4.6 Shipping documents, such as bills of lading, delivery notes, packing slips, as well as contractually agreed, mandatory or test reports according to custom and usage as well as security specification sheets shall be attached with each shipment. On all documents the order numbers as well as the markings requested in the order shall be stated. At the latest on the date of shipment a notification of dispatch as well as a delivery note shall be forwarded to us in duplicate for each individual shipment.

We shall be informed of arrivals of ships 48 hours prior to their arrival. If on arrival of the goods no due and proper shipping documents are available or if our order numbers are not correctly specified in the shipping documents, any and all additional costs incurred as a result thereof shall be borne by the supplier. § 4 par. 8 of these Standard Terms and Conditions of Purchase shall be applied accordingly.

4.7 The supplier shall only be entitled to partial performance if he has obtained our approval thereto beforehand. Our right to demand partial performance from the supplier shall not be affected as a result thereof.

4.8 The supplier shall not be authorised to provide deliveries or services prior to the agreed delivery date. In the event of a premature delivery we shall have the right to reject acceptance of the goods or to return the goods to the supplier or to store the goods up until the agreed delivery date.

**§ 5 Declarations on the origin of the goods and the RoHS regulation
(Restriction of the Use of Certain Hazardous Substances)**

- § 5.1 In the event of the supplier submitting documents on the origin of the goods, the supplier shall be obliged to enable a verification of the documentary evidence of origin through the customs administration and not only to render any necessary information or to furnish any possibly required confirmations. The supplier shall be obliged to replace any damage arising as a result of the declared origin not being acknowledged by the competent authorities as a result of a faulty certification or lacking possibilities of investigation.
- 5.2 The supplier shall commit itself to verify its delivery of goods with regard to prohibited materials pursuant to the Restriction of the User of Certain Hazardous Substances (“**RoHS**”). By special request the supplier shall submit a written declaration of conformity for the materials, construction parts and other parts.

§ 6 Workmanship and activities within the customer’s plant

- 6.1 Deliveries and performance on the part of the supplier shall be executed to such an extent that they comply with the contractual agreements, the law on technical work equipment, the pertinent accident prevention regulations, labour security, environmental and other regulations, the pertinent technical standards as well as generally acknowledged rules of technology overall. In performing the goods/services the supplier shall ensure that work is done if possible adopting an environmentally responsible approach conserving resources in so far as possible and largely avoiding emissions. We are authorised to demand a modified workmanship even after conclusion of the contract, unless the modification to the workmanship requested by us is deemed unreasonable on the part of the supplier.
- 6.2 Persons acting in fulfilment of the supplier’s obligation within our company are subject to the regulations vested in our plant regulations as well as to the applicable accident prevention, labour safety, environmental and any other pertinent regulations. Hazardous materials may only be used within our plant if this has been explicitly agreed upon with us and as such have to be marked according to the specifications.
- 6.3 The supplier is not authorised to duplicate any execution documents made available to him for manufacturing the goods to be supplied for purposes beyond the agreement or to make these available to any third party. The execution documents shall be returned to us upon request, at the latest after performing the delivery and rendering the services on the part of the supplier.
- 6.4 The supplier shall surrender to us any plans, execution documents, technical calculations or any other documentation or documents relating to the goods, in so far as such documentation and documents are required for use, maintenance or repair of the goods, or in so far as this has been agreed upon between the parties. Upon request the supplier shall also submit spare parts drawings with sufficient specifications as to the procurement of spare parts. At the point in time these documentation, documents and drawings are surrendered to us, these shall be deemed to pass on to our property.
- 6.5 The supplier shall furthermore present any and all documentation and documents relating to the goods – even prior to delivery of the goods – for the purpose of inspection thereof – if this is deemed necessary in order to monitor and verify that the goods meet contract specifications. Any possible approval of such documentation and documents by us shall not exempt the supplier from its responsibility to ensure that the goods meet the contract specifications on its part, unless we insist on the execution as desired by us despite any concerns raised by the supplier towards us.

- 6.6 Tools, master drawings and further materials which are charged to our account, shall pass on to our property once payment has been effected. They shall be stored by the supplier on our behalf free of charge and shall be surrendered to us upon request.
- 6.7 The materials provided by us shall remain our property. Any processing or transformation shall be performed on our behalf without committing us. Materials provided shall be stored clearly and separately from other objects and shall be designated as our property. The supplier shall insure such material sufficiently against fire, water and theft at its own expense.

§ 7 Inspection of the goods and quality assurance measures, acceptance

- 7.1 We shall be authorised to enter the supplier's premises with prior notice in order to inspect the goods and production process - even prior to completion of production. In so far as the goods are located on the property of a third party the supplier shall undertake any and all measures in order to enable us to inspect the goods. Any defects identified in the course of inspecting the goods shall be remedied by the supplier.
- 7.2 We shall be authorised to subject the quality assurance measures and systems of the supplier to an inspection. For this purpose the supplier shall grant us access to its premises with prior notice and shall provide us with any and all relevant information deemed necessary for evaluating the quality assurance measures and systems. Any possible regulations in quality assurance agreements shall remain unaffected thereby.
- 7.3 In so far as acceptance is subject to applicable statutory regulations to an agreement, a formal acceptance shall take place after preparing an acceptance protocol.

§ 8 Material defects and defects of title

- 8.1 The supplier shall be obliged to deliver the goods to us free of material defects and free of any industrial property rights or of any third-party rights.
- 8.2 Upon delivery of several identical products by the supplier we shall only be obliged to sample check the goods. Defects identified in the event of a due and proper inspection of the goods upon delivery shall be reported within one month as of delivery. Other defects shall be reported to us within one month as of their discovery. Warranty rights for defects becoming known upon delivery shall also not be excluded even if an appropriate qualified acceptance has not been declared upon acceptance of the goods.
- 8.3 If a material defect becomes apparent within six months as of transfer of perils, it shall be assumed that the product was already defective at the point of transfer of perils, unless this assumption is deemed incompatible with the type of product or defect.
- 8.4 In the event of delivery of goods which are not free of defects, the supplier shall either remedy the defect or deliver new products at our discretion. If the supplier allows an appropriate deadline set without having remedied the defect(s) or delivering products free of defects, we shall be entitled to remedy the defect and charge the costs to the supplier or to have any such remedied by a third party. Furthermore, the statutory terms and regulations shall be deemed applicable.

- 8.5 The supplier's warranty obligation shall not be affected by any approval of the supplier's plans, execution drawings, technical drawings etc.
- 8.6 The period of limitation for warranty claims shall be three years, in so far as longer periods of limitation are not prescribed by law. The period of limitation for warranty claims in spare parts which are purchased from the supplier shall begin on the date such spare parts are assembled. The period of limitation shall, however, end at the latest five years after delivery.

§ 9 Release from liabilities resulting from producer and product liability, third-party insurance

- 9.1 The supplier shall exempt us from any and all liabilities vis-à-vis third parties resulting from producer liability or product liability, in so far as the supplier is liable for the product defect causing the liability.
- 9.2 The supplier shall commit itself to take out and keep up a third-party liability insurance with an appropriate insurance coverage for damage to person and property.

§ 10 Right to offset and right of retention, prohibition of assignment

- 10.1 The supplier shall only be entitled to the right for set-off and lien with regard to uncontested claims or to claims which have been ascertained as final and absolute originating from the same contractual relationship with the customer.
- 10.2 An assignment of the supplier's claims against the customer to any third party shall be deemed excluded. § 354a HGB [German Commercial Code] shall remain unaffected.

§ 11 Warranty

- 11.1 For damages based on intent or gross negligence of our statutory representatives or executives, as well as for damages to persons we shall warrant in unlimited scope in compliance with the statutory regulations.
- 11.2 In the event of intent or gross negligence on the part of simple vicarious agents as well as in the event of any slightly negligent violation of substantial contractual obligations which are deemed essential for the purpose of complying with the subject matter of the contract and strict adherence thereto the supplier thus has to insist upon ("**cardinal damage**"), our warranty pursuant to the statutory specifications shall be limited to damage which was deemed foreseeable in type and scope on our part at the point of time of concluding the agreement.
- 11.3 For the rest entitlements on the part of the supplier to substitution of direct or indirect damage – irrespective of the legal ground any such is based on including possible compensation on the grounds of violating of conditions precedent to the agreement as well as such resulting from unlawful actions – shall be deemed excluded.

§ 12 Secrecy

- 12.1 The parties are obliged to treat any and all confidential information which they have received from the other contract partner or have learned as secret and confidential. The parties may not disclose any confidential information to employees and consultants unless any such is deemed necessary for ensuring a due and proper execution of the contractual relationship. The parties are obliged to subject such employees and consultants to secrecy and to document proof thereof to the respective other party, if such is requested by that party.
- 12.2 The non-disclosure agreement shall not apply to any such information which was apparent at the point of it being communicated to the contract partner or which has become apparent after being transmitted to the contract partner through no fault of its own.
- 12.3 The disclosure of confidential information and possible transmission of appropriate documentation shall not substantiate any rights in industrial property rights, know-how or copyrights of the disclosing resp. transmitting party. The parties agree that the disclosure or transmission of confidential information does not substantiate any pre-publication and any right based on prior use within the sense of the laws governing patents and petty patents.

§ 13 Concluding terms

- 13.1 In so far as the agreement or these Standard Terms of Purchase and Delivery contain any loopholes, the legally effective regulations to fill such loopholes shall be deemed to be agreed upon which the contract parties would have agreed upon pursuant to the economic objectives of the agreement and the purpose of these Standard Terms of Purchase and Delivery if they had been aware of such loopholes.
- 13.2 Place of fulfilment for the delivery of the goods is the place of destination specified by us. Place of fulfilment for our payments is the address of our branch office which has concluded the respective agreement.
- 13.3 If the customer is a merchant, a corporate body under public law or a legal entity under public law or if the customer has no general place of jurisdiction within the territory of the Federal Republic of Germany, then the place of jurisdiction for any and all disputes arising from the business relationship between the vendor and customer shall – at the discretion of the vendor – either be Vogt or the company address of the customer. In the event of any legal disputes against the vendor Vogt shall be deemed to be the exclusive place of jurisdiction in such cases. Mandatory statutory regulations on exclusive places of jurisdiction shall remain unaffected by this term.
- 13.4 Any and all relations between the vendor and the customer shall be exclusively subject to the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the international Sale of Goods of 11 April 1980 (CISG) shall not be applicable.