



## GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY OF ST EXTRUDED PRODUCTS GERMANY GMBH AS A COMPANY OF THE ST EXTRUDED PRODUCTS GROUP

### § 1 Validity of the General Terms and Conditions of Sale and Delivery

- 1.1 These General Terms and Conditions of Sale and Delivery apply exclusively for all existing and future contractual relationships with entrepreneurs, legal entities under public law or special funds under public law within the meaning of section 310 (1) German Civil code (BGB). Furthermore, they are a component of all contracts that the vendor concludes with its contractual partners (hereinafter the “**customer**”) in respect of the offered deliveries and services. They also apply to all future deliveries, services or offers to the customer, even if they are not agreed separately.
- 1.2 Where reference is made to the “written form” or “in writing” below, transmission by telecommunication is sufficient, in particular by fax or by e-mail, provided that a copy of the respective signed declaration is transmitted.
- 1.3 The terms and conditions of the customer or third parties shall not apply without the vendor’s written consent, even if the vendor does not separately dispute their validity in individual cases. Even if the vendor refers to a document that contains or refers to terms and conditions of the customer or a third party, this shall not imply the vendor’s agreement to the validity of said terms and conditions.
- 1.4 Verbal collateral agreements as well as any deviations from, additions to, or the exclusion of, these General Terms and Conditions of Sale and Delivery require written confirmation from the vendor to be legally valid.
- 1.5 The Incoterms shall apply in their current version as amended at the time of conclusion of the contract, insofar as these General Terms and Conditions of Sale and Delivery do not contain any deviating provisions.
- 1.6 In all matters of interpretation, the German version of these General Terms and Conditions of Sale and Delivery shall be deemed the authoritative version, even if translations of these Terms and Conditions of Sale and Delivery are made available to the customer or signed by the parties.

### § 2 Technical Information

- 2.1 Markings from transport devices are visible on the contact surfaces. Mechanical processing may be necessary in case of high decorative requirements.
- 2.2 Structural changes due to web marks, press seams and material accumulations can impair the decorative appearance and mechanical properties.
- 2.3 Hollow sections are conditionally resistant to external and internal pressure (extruded seams).
- 2.4 Anodising capability is assured for the two-step process.

- 2.5 With standard quality in accordance with DIN/EN, consistent colouring during anodising cannot be guaranteed.
- 2.6 In accordance with Article 33 of the REACH Regulation, we wish to inform you that the semi-finished products AW 2007 / AW 2011 / 6012 supplied by us to your company contain the following substance on the REACH Candidate List: < Lead | CAS number 7439-92-1
- 2.7 In the case of exports to third countries, tubes and round bars with a diameter of 75mm or more and a tensile strength of 460MPa or more at 20°C are subject to EC export licensing (see Dual-Use Regulation). These goods must not be used for nuclear or armament purposes.

### § 3 Quotations and conclusion of contract

- 3.1 All quotations submitted by the vendor are non-binding, unless they are expressly marked as binding or contain a specific acceptance period.
- 3.2 The sole authoritative document governing the legal relationship between the vendor and the customer is the written confirmation of the order by the vendor (hereinafter the “**order confirmation**”). Verbal agreements by the vendor before the order confirmation is issued are legally non-binding – any verbal agreements between the contracting parties are superseded by the order confirmation, unless it is expressly stated in the order confirmation that they shall continue to be binding.
- 3.3 Supplements and amendments to the respective agreement, including these General Terms and Conditions of Sale and Delivery, must be made in writing in order to be valid.

### § 4 Nature of the goods

- 4.1 Unless otherwise agreed, the respective relevant German DIN-EN standards – and otherwise the relevant DIN standards – apply. Incidentally, our goods are supplied to a standard commercial quality and finish, taking into account manufacturing tolerances for dimensions, weights and quality conditions. Customary deviations and deviations, which occur due to legal regulations or technical improvements, as well as the replacement of components by equivalent parts are permissible, provided that they do not affect the respective product’s usability for the contractually intended purpose.
- 4.2 References to standards, material data sheets or factory tests do not constitute a guarantee of quality. They are merely descriptions or identifications of the respective delivery or service. Public statements made about the nature of our goods by us, our agents or by any manufacturers or their agents, in particular in advertising documents, may only serve as substantiation for claims for material defects asserted by the customer if they have been made an integral part of a quality agreement concluded between the parties.
- 4.3 Information provided by the vendor on the subject of the delivery or service (e.g. weights, dimensions, utility values, load capacities, tolerances and technical data) as well as our representations of the same (e.g. drawings and illustrations) are only approximations, unless their usability for a contractually

agreed purpose requires exact conformity.

- 4.4 With regard to the weights, only the weighing carried out by us or our supplier on a calibrated scale is authoritative. Proof of weight shall be provided via presentation of the respective weighing slip.

### **§ 5 Copyrights of the vendor**

The vendor reserves the title or copyright to all drawings, illustrations, calculations, brochures, catalogues, models, tools and other documents and aids that are submitted with the quotations and cost estimates or provided to the customer. Without the express consent of the vendor, the customer shall not make these objects accessible or known, either in whole or in part, to third parties. Furthermore, the customer shall not disclose or reproduce them itself or via third parties. The customer shall, at the vendor's request, return these items in full to the vendor and destroy any copies made thereof if they are no longer required in the ordinary course of business, or if no associated contract is concluded.

### **§ 6 Delivery**

- 6.1 Unless otherwise agreed in writing, our goods are delivered ex works or ex stock at our discretion. This may also refer to the factory or warehouse of a third party.
- 6.2 The risk is transferred to the customer at the latest upon delivery to the forwarding agent or another transport person. This also applies if the goods are delivered by our own employees. In the absence of a specific instruction from the customer, we are responsible for selecting a suitable transport person. The risk is also transferred to the customer if the goods are stored by us at the customer's request.
- 6.3 Our service and delivery obligation is subject to the condition that we are supplied in a timely and correct manner. The vendor may – without prejudice to its rights arising due to default on the part of the customer – demand from the customer an extension of delivery and performance deadlines or a postponement of delivery and performance dates for the duration of the customer's failure to meet its contractual obligations towards the vendor.
- 6.4 Deadlines and dates for deliveries and services provided by the vendor are always only approximate, unless a specific delivery period or delivery date has been expressly agreed. In the case of expressly agreed delivery periods, the customer shall accept the goods within two weeks of being notified by us of the handover of the goods or their readiness for shipment.
- 6.5 The delivery period begins with the dispatch of the order confirmation, but not before the provision of all necessary documents, approvals and releases by the customer, as well as the clarification of any technical queries. To the extent that dispatch has been agreed, delivery deadlines and delivery dates refer to the time of handover to the forwarding agent, carrier or other third party commissioned to carry out the transport.
- 6.6 The vendor shall not be liable for the impossibility of delivery or for delays in delivery insofar as these

are caused by force majeure or other events unforeseeable at the time of the conclusion of the contract (e.g. operational disruptions of all kinds, difficulties in the procurement of materials or energy, transport delays, strikes, lawful lockouts, shortages of labour, energy or raw materials, difficulties in obtaining the necessary official permits, official measures or the failure of suppliers to deliver or to deliver correctly or on time) for which the vendor is not responsible. If such events make it significantly more difficult or impossible for the vendor to deliver or perform and the hindrance is not only of a temporary nature, the vendor shall be entitled to withdraw from the contract. In the event of temporary hindrances, the delivery or performance deadlines shall be extended or the delivery or performance dates postponed by the period of the hindrance plus a reasonable start-up period. If the customer cannot reasonably be expected to accept the delivery or service as a result of the delay, it may withdraw from the contract by means of an immediate written declaration to the vendor.

6.7 The vendor is entitled to make partial deliveries if

- / the partial delivery is usable by the customer within the scope of the contractual purpose,
- / the delivery of the remaining ordered goods is ensured and
- / the customer does not incur any significant additional expenses or costs as a result (unless the vendor agrees to bear these costs).

Unless otherwise agreed, excess or short deliveries of up to 10% of the ordered quantity or number of items are permitted with corresponding offsetting.

6.8 In the case of call orders, the customer shall call the goods within a period of two weeks after receiving notification from us of the handover of the goods or their readiness for shipment. If call orders in excess of the ordered quantities are called, we are entitled either to deliver only the ordered quantities or to charge for the additional quantities at the respective current market price.

6.9 If the customer does not accept the delivery or fails to call the goods on time, we are entitled – without prejudice to our claim to performance and other rights – to demand compensation for our additional expenses for the unsuccessful offer and to store the goods at the customer's expense and risk.

## § 7 Prices

7.1 Unless otherwise agreed in writing, the price list that was valid at the time of conclusion of the contract shall apply. The prices are ex works or ex stock, including the customary packaging for the respective goods. The prices apply to the scope of services and delivery as listed in the order confirmations. Extra or special services are charged separately. All prices are in euros.

7.2 Where the delivery is to be made later than three months after the conclusion of the contract – either in accordance with the agreement or due to a delay for which the customer is responsible – we are entitled to increase the agreed prices accordingly in the event of cost increases which occur after

conclusion of the contract; in particular due to collective bargaining agreements or increased material prices.

- 7.3 The prices do not include statutory VAT. This is shown separately on the invoice at the statutory rate on the date of invoicing.
- 7.4 If the goods are stored at the customer's request, the costs incurred shall be borne by the customer.

## **§ 8 Payment**

- 8.1 Payment must be made within 30 days of the invoice date. The timeliness of payments shall be determined by the time of receipt of the payment by us or the unconditional crediting of our account.
- 8.2 If the customer fails to make payment when due, interest shall be payable on the outstanding amounts from the due date at a rate of 9% above the base rate. Our right to assert claims for further damages in case of default remains unaffected.
- 8.3 Where there are several outstanding claims against the customer and a payment by the customer is insufficient to settle all claims, the settlement shall be made in accordance with the statutory provisions of section 366 (2) BGB, even if the customer has expressly rendered payment for a specific claim.
- 8.4 The deduction of counterclaims by the customer or the retention of payment for such claims is only permitted if the counterclaims are unchallenged or legally upheld.
- 8.5 The vendor is entitled to demand advance payment or provision of security before making outstanding deliveries or performing outstanding services if, after conclusion of the contract, it becomes aware of circumstances which substantially reduce the creditworthiness of the customer and put the settlement of the vendor's outstanding claims against the customer under the respective contractual relationship at risk (including claims in respect of other individual orders placed under the same framework contract).

## **§ 9 Warranty, material defects**

- 9.1 The warranty period is one year from delivery or, if acceptance is required, from acceptance. The statutory limitation periods apply for products that are used in accordance with their usual purpose for a building and may cause it to be defective.
- 9.2 The delivered items must be carefully examined immediately after delivery to the customer or its appointed third party. They shall be deemed to have been accepted by the customer with regard to obvious defects or other defects, which would have been apparent in the course of an immediate, careful examination, unless the vendor receives a written notice of defects within fourteen working days of delivery. With regard to other defects, the delivery items shall be deemed to have been accepted by the customer unless the notice of defects is received by the vendor within fourteen working days from the time when the defect was discovered. If the defect was already apparent to the

customer under the normal conditions of use at an earlier date, however, the complaint period shall start from that earlier date.

- 9.3 If it turns out during the inspection of alleged defects that the customer's warranty claim is unfounded, the customer shall be obliged to bear the costs caused by the inspection.
- 9.4 In the case of substandard goods and goods of second-tier quality, any warranty rights for defects that are known to the customer upon conclusion of the contract are excluded. The vendor is also not liable for defects which, upon conclusion of the contract, were not known to the customer as a result of gross negligence, unless the vendor has fraudulently concealed the defect or accepted a corresponding guarantee for the quality of the defect.
- 9.5 If the customer commissions the vendor to manufacture a product based on the customer's specifications or instructions, and the vendor believes that these instructions or specifications will lead to a defect in the product, the vendor shall inform the customer accordingly. In such cases, the vendor shall only be obliged to manufacture the product in accordance with the customer's instructions or specifications if the customer issues a written disclaimer, which indemnifies the vendor against any claims based on the instructions or specifications in question.
- 9.6 In case of material defects of the delivered goods, the vendor is obliged and entitled to initially rectify or replace the goods within a reasonable time period at its own discretion. Should this prove unsuccessful, i.e. if the repair or replacement delivery is unfeasible, unreasonable, rejected or delayed unreasonably, the customer may withdraw from the contract or reduce the purchase price by an appropriate amount.
- 9.7 The warranty does not apply if the customer modifies the delivery item without the vendor's consent or has it modified by third parties in a manner which makes it impossible or unreasonably difficult to eliminate the defect. In any case, the customer shall bear the additional costs incurred to remedy the defect due to the modification.

### **§ 10 Liability for damages due to the fault of a party**

- 10.1 The vendor's liability for damages, regardless of the legal grounds, in particular due to unfeasibility, delay, defective or incorrect delivery, breach of contract, breach of obligations in contract negotiations or tort – to the extent that the vendor is at fault – is limited in accordance with this section 10.
- 10.2 The vendor, its legal representatives or vicarious agents assume unlimited liability for damages culpably caused by them due to injury to life, body or health.
- 10.3 The vendor is also liable for damages due to any negligent breach of cardinal obligations by the vendor, its legal representatives or other vicarious agents. In case of slight negligence, however, the vendor's liability is limited to any damage that was typical and foreseeable at the time of the respective circumstances causing the damage. Cardinal obligations are the essential obligations that form the basis of a contract, and whose fulfilment is a prerequisite for proper performance of the contract, and



on whose fulfilment the customer regularly relies and may rely.

- 10.4 In case of liability for slight negligence, the vendor's obligation to provide compensation is limited to a maximum of three times the value of the delivery concerned or, in the case of pure financial loss, to a maximum of two times the value of the affected delivery, and in any case to a maximum sum of EUR 5 million per claim and EUR 10 million per calendar year.
- 10.5 In all other respects, the vendor shall only be liable for intentional or grossly negligent acts committed by the vendor, its legal representatives or other vicarious agents.
- 10.6 The aforementioned limitations of liability do not apply to product liability claims.
- 10.7 Any further liability is excluded in principle.

### § 11 Property rights of third parties

- 11.1 In accordance with this section 11, the vendor is responsible for ensuring that the delivery item is unencumbered by third-party commercial or intellectual property rights. Each contracting party shall notify the other contracting party in writing without delay in the event that claims are asserted against it due to the infringement of such rights.
- 11.2 In the event that the delivery item infringes commercial or intellectual property rights of a third party, the vendor shall modify or exchange the delivery item in such a way that ensures that said third-party rights are no longer infringed, but that the delivery item still fulfils the contractually agreed functions. Failing this, the vendor shall grant the customer the right of use of the item by concluding a corresponding licence agreement. Where the vendor fails to do so within a reasonable period of time, the customer shall be entitled to withdraw from the contract or to reduce the purchase price by an appropriate amount. Any claims for damages asserted by the customer shall be subject to the restrictions pursuant to section 10 of these General Terms and Conditions of Sale and Delivery.
- 11.3 In the case of infringements by other manufacturers' products supplied by the vendor, the vendor shall, at its discretion, either assert claims against the manufacturers and upstream suppliers on behalf of the customer, or assign such claims to the customer. In such cases, claims may only be asserted against the vendor pursuant to this section 11 if the judicial enforcement of the aforementioned claims against the manufacturer and suppliers was unsuccessful, or if the claims appear to have no chance of success, for example due to bankruptcy.

### § 12 Reservation of title

- 12.1 The delivered goods ("**reserved goods**") shall remain our property until all claims, which we are entitled to assert – either now or in the future – against the customer, have been fulfilled, including all current-account balance claims. In the event that the customer breaches the contract – in particular if the customer is in arrears with the settlement of a request for payment – we are entitled, after setting a reasonable deadline for performance, to take back the reserved goods. The transport costs incurred

for the return of the goods shall be borne by the customer. To the extent that we take back the reserved goods, this shall constitute our withdrawal from the contract. In the event that we seize or impound the reserved goods, this shall also constitute our withdrawal from the contract. We are entitled to utilise any returned goods taken back or seized by us. The proceeds of the utilisation shall be offset against the amounts owed to us by the customer, after we have deducted a reasonable amount for the costs of recovery.

- 12.2 The customer shall treat the reserved goods with due care and shall insure them at its own expense at their replacement value against fire, water and theft. Where maintenance and inspection work becomes necessary, the customer shall carry this out in due time at its own expense.
- 12.3 The customer may use the reserved goods and resell them in the ordinary course of business, provided that it is not in default of payment and a risk to our reservation of title appears impossible. However, the customer may not pledge the reserved goods or assign them as security. For the sake of precaution and with immediate effect, the customer hereby assigns us all claims for payment against its own customers from resale of the reserved goods, as well as its claims in respect of the reserved goods against its own customers or third parties arising due to other legal grounds (in particular, claims due to tort and claims for insurance benefits), including all current-account balance claims. We hereby accept this assignment.

On our behalf, the customer is entitled to collect these claims, which it has assigned to us, on its own account, unless we revoke this authorisation. This does not affect our right to collect these claims directly; however, we shall not assert the claims directly or revoke the customer's authority to collect, provided that the customer duly fulfils its payment obligations.

However, in the event that the customer breaches the contract – in particular where it is in default of a due payment – we are entitled to demand that the customer notify us of the assigned claims and the respective debtors, and that the customer also notifies the respective debtors of the assignment of the claims, and that the customer hands over to us all documents and provides all information required by us in order to assert the claims.

- 12.4 Any processing or alteration of the reserved goods by the customer is always carried out on our behalf. In the event that the reserved goods are processed with other items which do not belong to us, we shall acquire co-ownership of the new item in the ratio of the value of the reserved goods (final invoice amount including VAT) to the value of the other processed goods at the time of processing. Furthermore, the same terms shall apply to the new object created via the processing as to the reserved goods.

Where the reserved goods are inseparably combined or mixed with other items which do not belong to us, we shall acquire co-ownership of the new item in the ratio of the value of the reserved goods (final invoice amount including value added tax) to the value of the other combined or mixed items at the time of the combination or mixing. If the reserved goods are combined or mixed in such a way that the customer's item becomes the main item, the customer hereby agrees to assign co-ownership of the



item to us on a pro-rata basis. We hereby accept this assignment.

The customer shall hold the sole ownership or co-ownership of an item thus created in safe custody for us.

12.5 In the case of seizure of the reserved goods by third parties or other interventions by third parties, the customer shall inform the parties concerned of our right of ownership and shall notify us immediately in writing so that we can enforce our property rights. In the event that the third party is unable to reimburse us for judicial or extrajudicial costs incurred in this context, the customer shall be liable for these costs.

12.6 If the customer so requests, we are obliged to release the securities to which we are entitled to the extent that their realisable value exceeds the value of our outstanding claims against the customer by more than 10%. However, we shall be entitled to select the securities to be released.

### **§ 13 Prohibition of assignment**

An assignment of the customer's claims against us to third parties is hereby excluded. All rights under section 354a German Commercial Code (HGB) remain unaffected.

### **§ 14 Tools**

To the extent that tools are made or procured by us for the purpose of making deliveries to the customer, these shall remain our property even if the tool costs are paid in full or on a pro-rata basis by the customer. The tools shall be used exclusively for deliveries to the customer, provided that the latter fulfils its contractual obligations towards us. If 24 months have elapsed since the last delivery

or if the customer's contribution to the acquisition of the tool has been amortised, we shall also be entitled to use the tool for other purposes or to scrap it.

### **§ 15 Place of performance**

The place of performance for our deliveries is the factory or warehouse from which the goods are shipped or held for collection. This may also be the factory or warehouse of a third party. The place of performance for payments is Vogt.

### **§ 16 Final provisions**

16.1 Insofar as the contract or these General Terms and Conditions of Sale and Delivery contain any omissions or loopholes, those legally effective provisions to fill such omissions or loopholes shall be deemed to be agreed upon, to which the contracting parties – had they been aware of such omissions or loopholes – would have agreed pursuant to the economic objectives of the contract and the purpose of these Standard Terms and Conditions of Sale and Delivery.

16.2 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 vendor’s discretion – either be Vogt or the registered company address of the customer. However, Vogt shall be the exclusive place of jurisdiction for actions against the vendor in these cases. Mandatory statutory regulations regarding exclusive places of jurisdiction shall remain unaffected by this regulation.

- 16.3 Any and all relationships between the Contractor and the Principal are 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 apply. Similarly excluded are reference provisions of German international private law that would lead to the application of foreign legal norms or foreign jurisdictions, unless they are compulsory norms.