

General Conditions of Sale of Schierle Stahlrohre GmbH & Co. KG (Version May 2018)

I. Application, Conclusion of Contract

1. These General Conditions of Sale (Conditions) shall apply to all present and future contracts with commercial buyers, with public legal entities as well as public trusts in regard to deliveries and other services including contracts for work labour and the delivery of non-fungible goods. The Buyer's purchase conditions shall not be binding even if we do not expressly object to them again after their receipt.
2. Our offers are non-binding to us. Oral agreements, promises, assurances, guaranties and statements about the designated use of our products made or given by our sales staff shall not be binding unless confirmed by us in text form.
3. The provision with test certificates according to DIN EN 10204 requires consent in text form. We are entitled to forward copies of such certificates and to make anonymous our supplier and the issuer in such copies.
4. Any trade terms shall, in cases of doubt, be interpreted according to the Incoterms as amended from time to time.

II. Prices

1. If not otherwise agreed, the prices and conditions of our pricelist in force at the time of the conclusion of the contract shall apply. The merchandise will be invoiced "gross for net".
2. In cases of ex-work sales, we may raise the agreed price to the same degree to which our seller raises its price before the goods are being shipped, provided there is a period of more than three months between the conclusion and the shipment. The Buyer may, in such cases, withdraw from the contract provided his declaration of withdrawal reaches us immediately after we have declared the price raise.
3. Short of an agreement thereto, the fees for agreed test certificates comply with our price list resp. with the price list of the respective issuer (delivering plant).

III. Payment and Set-Off

1. Unless otherwise agreed or stated in our invoices, payment shall be made without cash discounts immediately upon delivery and in such a manner we can dispose of the sum on the due date. Any payment transfer costs shall be borne by the Buyer.
2. The Buyer may retain or set off any counterclaims only insofar as such claims are undisputed or have become legally binding and as they are based on the same contractual relation with the Buyer and as they would not entitle him to refuse the fulfilment of his contractual duties under section 320 BGB (German Civil Code).
3. Should the Buyer exceed the payment deadline or should he default in payment, we will debit him with interests at 8% points above the basic interest rate, unless higher rates have been agreed upon. We reserve the right to claim additional damages resulting from late payment.
4. Should it become evident after the conclusion of the contract, that payment is jeopardised by the Buyer's lack in financial means, or should the Buyer be in default with a considerable portion of the amount due or should other circumstances arise which show a material deterioration in the Buyer's financial position we are entitled to the rights of § 321 BGB (German Civil Code) and to refrain from any further performance. In such cases, we are also authorised to make due any and all of our non statute-barred accounts receivable resulting from the same legal relationship.
5. Any agreed upon cash discount always relates to the invoiced value excluding freight and will only be granted if and in so far as the Buyer has completely paid all payables due at the time of the discount. Unless otherwise agreed to discount periods shall begin with the date of the invoice.

IV. Delivery Times

1. Our commitment to deliver is subject to our correct and timely self-delivery, unless attributable to our fault, and in case of imported material additionally under provision of timely receipt of monitoring documents and import licenses.
2. Any confirmation as to delivery times shall only be approximate. Delivery times shall commence with the date of our order confirmation and are subject to the timely clarification of any details of the order as well as of the fulfilment of any of the Buyer's obligations, e.g. to produce official certifications, to provide letters of credit and payment guarantees, to pay agreed instalments or to return approved drawings.
3. Any agreed delivery time shall be considered to be met if and in so far the goods have left the works or our warehouse at such time or date. If and in so far the goods fail to be despatched at the agreed time for reasons not attributable to us, the agreed delivery time shall be considered to have been met at the

- day on which the goods are notified to be ready for dispatch.
4. In case of delayed delivery, the Buyer may set a reasonable period of grace and may, after the fruitless expiry of the term, step back from the contract if and when the contract has not been fulfilled. In such cases, claims for damages comply with clause XI of these conditions.
 5. The Buyer has to ensure an undisturbed delivery of the goods and shall refer timely to difficult delivery conditions. The Buyer shall unload properly and without delay. If we or third parties assist in unloading, no legal obligation is incurred and the risk is entirely with the Buyer.

V. Retention of Title

1. The goods delivered to the Buyer shall remain our property until the full purchase price is paid. The Buyer shall take all measures required to preserve the retention of title – or of an equivalent security in the country of his branch or in a different country of destination -, and to provide the corresponding evidence upon our request.
2. To the extent permitted by the laws of the country, in which the goods are located, the following additional regulations apply:
 - a. The goods delivered to the Buyer shall remain our property (Reserved Property) until all of the Buyer's accounts resulting from the business relationship with him, in particular, any account balances have been settled (current account reservation). This condition shall apply to any future as well as any conditional claims, e.g. from bills of exchange and such cases where the Buyer will affect payments on specifically designated claims. As soon as the Buyer has settled his accounts with us in full, he shall obtain title to those goods which were delivered to him before such payment was effected. The current account reservation applies not in in prepayment or delivery vs payment cases.
 - b. With regard to processing or manufacturing of the Reserved Property, we shall be deemed to be manufacturer within the meaning of § 950 BGB (German Civil Code) without committing us in any way. The processed or manufactured goods shall be regarded as Reserved Property within the meaning of clause 2 a of these Conditions. If the Buyer manufactures, combines or mixes the Reserved Property with other goods we shall obtain co-ownership in the new goods in proportion to the invoiced price of the Reserved Property to the invoiced price of the other goods. If, by such combining or mixing, our ownership expires, the Buyer herewith transfers to us any rights which the Buyer will have in the new stock or goods in proportion to the invoiced price of the Reserved Property, and he will keep them in safe custody free of charge. Our co-ownership rights shall be regarded as Reserved Property within the meaning of clause 2 a of these conditions.
 - c. The Buyer may resell the reserved property only within the normal course of his business in accordance with his normal business terms and provided he is not in default of payment and provided also that any rights resulting from such resale will be transferred to us in accordance with clause d) - e) of these conditions. The Buyer shall not be entitled to dispose of the Reserved Property in any other way.
 - d. The Buyer hereby assigns to us any claims resulting from the resale of the Reserved Property. Such claims shall serve as our security to the same extent as the Reserved Property itself. If the Reserved Property is resold by the Buyer together with other goods not purchased from us, then any receivables resulting from such resale shall be assigned to us in the ratio of the invoiced value of the other goods sold by the Buyer. In the case of resale of goods in which we have co-ownership rights, the assignment shall be limited to the part which corresponds to our co-ownership rights.
 - e. The Buyer shall be entitled to collect any receivables resulting from the resale of the Reserved Property. This right shall expire if withdrawn by us, at the latest if the Buyer defaults in payment; fails to honour a bill of exchange; or files for bankruptcy. We shall exert our right of revocation only if and in so far as it becomes evident after the conclusion of the contract that payment resulting from this contract or from other contracts is jeopardised by the lack of Buyer's ability to pay. The Buyer shall - upon our request - immediately inform his customers of such assignment and to forward to us any information and documents necessary for collection.
 - f. The Buyer shall immediately inform us of any seizure or any other attachment of the Reserved Property by a third party. He shall bear any costs necessary to suspend such seizure or attachment, to separate or to remove the Reserved Property, if and in so far as such costs are not borne by a third party.
 - g. Should the total invoiced value of our collateral exceed the amount of the secured receivables including additional claims for interest, costs etc. by more than 50 %, we shall - upon the Buyer's request - release pro tanto collateral at our discretion.

VI. Weights

1. For the weight of the goods the weight determined by our or our suppliers' scales shall be decisive. The weight shall be evidenced by presentation of the pertinent weight check. We may also determine the weight without weighing according to length and/or theoretically on the basis of the statistical measures. We are entitled to increase the theoretical weight by 2 ½ % (commercial weight) to compensate rolling-tolerances resp. tolerances in thickness and to bill our products based on a commercial weight of 8 kp/dm³.
2. Any indications given in the delivery notes as to the number of pieces, bundles etc. are not binding, if and in so far as the goods are invoiced by weight. Where, in accordance with trade usage, the goods are not weighed piece by piece, the total weight of the delivery shall prevail. Any difference with regard to the calculated weight of the single pieces shall be proportionally allocated to them.

VII. Testing and Inspection

1. Where testing and inspection of the goods has been agreed upon, the goods may only be inspected at the delivering plant resp. at our warehouse immediately after the Buyer has been informed that the goods are ready for dispatch. The Buyer ensures that we may mandate the desired inspecting company in his name and for his account resp. for his customer. If not otherwise agreed, these authorisation rates as granted by designating an inspecting company in the order.
2. The Buyer shall bear his personal inspection costs, whereas the costs of inspection will be invoiced to him in accordance with our price list or with the price list of the delivering plant.
3. Should, through no fault of ours, an inspection of the goods fail or be delayed or be incomplete, we shall be authorised to dispatch the goods without prior inspection or to store them at the Buyer's expense and risk and to invoice the goods to him.

VIII. Dispatch, Passing of Risk, Packaging, Partial Delivery

1. We shall be entitled to choose the route and mode of dispatch as well as the forwarding agent and the carrier. Unless otherwise agreed upon in text form, our deliveries take place at our warehouse.
2. The Buyer shall immediately request delivery of those goods which have been notified to him as ready for dispatch. Otherwise we are entitled, upon reminder, to ship such goods at the Buyer's cost and risk or to store them at our discretion and to invoice them to the Buyer.
3. Can, by reasons not attributable to us, the goods not be shipped or will it become substantially difficult to ship the goods via the designated route or to the designated place within the designated time, we reserve the right to ship them via a different route or to a different place. Any additional costs will be borne by the Buyer. In such cases we will ask the Buyer for his prior comments.
4. In the case of call-off orders the risk is transferred to the Buyer at the time of the provision of the goods for collection. In all other transactions, including freight prepaid and freight-free deliveries, the risk of loss or damage to or even of confiscation of the goods shall pass on to the Buyer at the time where we hand them over to the forwarding agent or to the carrier, at the latest with their departure from our warehouse. We will buy insurance only if requested to by the Buyer and at his cost. The Buyer shall unload the goods at his cost.
5. The goods will be delivered unpacked and not be protected against rust. Only if agreed upon, the goods will be delivered packed. Besides, any package, protection and/or transport device will be supplied according to our experience and at the Buyer's cost. We will take back such devices at our warehouse within a suitable period of time without reimbursement as a principle. We will not bear any costs for their re-transport or disposal.
6. We shall be entitled to make partial deliveries at reasonable quantities. We may also exceed or reduce the agreed quantities as appropriate. Where quantities are indicated as "circa", we may exceed or fall below the agreed quantity up to 10 %. Customary excess and short deliveries of the contracted quantity are legitimate.

IX. Callable and Continuous Deliveries

Where the contract provides for continuous deliveries, the Buyer shall divide the quantities and grades of the goods into approximately equal monthly shipments. Otherwise we shall be entitled to specify them at our own fair and just discretion.

Where the single calls for delivery exceed the total contractual quantity, we shall be entitled, yet not committed, to deliver the surplus quantity and invoice it at the prices applicable at the time of the call or the delivery.

X. Warranty Provisions

1. The inner and outer properties of the goods, especially their quality, grade and dimensions are to be determined by the agreed or short of a deviating agreement by the DIN and DIN EN standards effective at the time of the conclusion of the contract, otherwise by practice and commercial custom. References to standards and other sets of regulations, to test certificates according to DIN EN 10204 and other attestations as well as particulars of qualities, grades, dimensions and use of the goods are no warranties or guaranties, just as little declarations of conformity and corresponding markings such as CE and GS.
2. For the inspection of the goods and the indication of defects the statutory provisions apply, it being understood that the duty to inspect the delivered goods includes the inspection of eventual test certificates according to or correlating to DIN EN 10204 and any defects of the goods and test certificates are notified to us in text form.
3. In case the Buyer intends to install the goods into another object or attach the goods to another object, prior to installation resp. attachment, the Buyer has the obligation to inspect the goods at least at random with regard to properties relevant for the application in question and to notify us of defects without delay. In case the Buyer, in the event of an installation of the goods into another object or attachment of the goods to another object, fails to inspect the properties of the goods relevant for the designated end use at least at random prior to installation resp. attachment, this represents a particularly grave disregard of the care required in the ordinary course of business (gross negligence) in relation to us. In such a case, the Buyer may assert rights in relation to these properties only if the defect had been deliberately concealed or in case of a guarantee for the respective quality of the goods.
4. If and in so far the Buyer's claim for defects is justified and has been made in time, we may, upon our discretion, remedy the defect or deliver non-defective goods ("substitution"). Place of performance for the substitution is our seat. Should we fail or decline the substitution, the Buyer may resort to his statutory rights. In cases where the defect is only minor or where the goods have already been resold, processed or transformed, he may only reduce the purchase price.
5. In case the Buyer has installed the goods, in accordance with the goods' type and designated use, into another object or attached the goods to another object, he may claim reimbursement of his necessary costs for the dismantling of the defective goods and the installation or attachment of goods free from defects ("dismantling and installation costs") only in accordance with the following provisions:
 - Necessary dismantling and installation costs are only those, which directly result from the dismantling resp. removal of the defective goods and the installation resp. attachment of identical goods, have accrued on the basis of competitive market prices and have been proven by the Buyer by appropriate documents in text form.
 - Additional costs of the Buyer for consequential damages such as e.g. loss of profit, down time costs or additional costs for cover purchases are no dismantling and installation costs and therefore not recoverable under Sect. 439 para. 3 of the German Civil Code. The same applies for sorting costs and for supplementary costs resulting from the fact that the sold and delivered goods are at a place other than the agreed place of delivery.
 - The Buyer is not entitled to request advance payments for dismantling and installations cost or other expenses required for the remedy of the defective delivery.
6. We will reimburse the Buyer for his expenditures in connection with the substitution only in so far as such expenditures are reasonable and not disproportionate in relation to the value of the goods. Disproportionate expenditures are especially given in case the expenditures requested by the Buyer, in particular dismantling and installation costs, exceed 150 % of the purchase price of the goods invoiced by us or 200 % of the value of the defective merchandise. Costs of the Buyer related to the self-remedy of defects without the legal requirements being fulfilled, are excluded, the same applies for costs for disassembly of the defective and assembly of replacement goods, in case due to a transformation of the buyer before the assembly, the assembled goods provide substantially different features than the original goods delivered by us. Expenditures accrued by delivery of goods to another place than that of the agreed performance, will not be accepted.
7. If the Buyer does not give us the opportunity to immediately make sure of the defects, if he does not immediately supply the faulty goods or samples thereof upon request for inspection, all rights regarding defects as to quality lapse.
8. No warranty shall be given to goods sold as declassified material with regard to such defects either specified in the contract or to those normally to be expected. Goods classified as "Ila-Ware" ("secondaries") are not subject to any warranty, subject to XI no. 2 of these terms. Unless otherwise agreed and as far as the respective standards are fulfilled, surface corrosion is no defect.
9. Our further liability is subject to Section XI of these Conditions. Any of the Buyer's rights of recourse

according to sections 445a, 478 BGB (German Civil Code) shall remain unaffected.

XI. Recovery of Damages and Limitation Periods

1. Our liability for breach of contractual or extra-contractual obligations, in particular for non-performed or deferred deliveries, for breach of duties prior to the contract ("Verschulden bei Vertragsanbahnung") as well as for tortuous acts - including our responsibility for our managerial staff and any other person employed in performing our obligations - shall be restricted to damages caused by our wrongful intent or by our gross negligence and shall in in case of gross negligence not exceed the foreseeable losses and damages characteristic for the type of contract in question.
2. The aforesaid restriction shall not apply to such cases where we breach our fundamental contractual obligations and therefore the accomplishment of the purpose of the contract is at risk or where the non-fulfilment of the obligations the contracting party relies on renders the proper completion of the contract impossible. It shall neither pertain to damages to life, to the body or to health caused by our fault nor to any cases where we have guaranteed certain characteristics of the goods. Nor shall such clause affect our statutory liability laid down in the Product Liability Act (Produkthaftungsgesetz) of 15/12/89. Any statutory rules regarding the burden of proof shall remain unaffected by the aforesaid.
3. Unless otherwise agreed to any contractual claims which the Buyer is entitled to in connection with the delivery of the goods, including claims for damages for defective goods, shall fall under the statute of limitations within a period of one year after the goods have been delivered to the Buyer. This shall not apply insofar as Section 438 para. 1 No. 2, Section 478, or Section 634 lit a) para. 1 No. 2 of the German Civil Code BGB require longer limitation periods, in cases of injuries to life, body and health, breaches of contract caused by our wrongful intent or by our gross negligence or in cases where a defect is fraudulently concealed. In case of a supplementary performance, the period of limitation shall not start anew but rather is suspended until the end of a three month's period after the supplementary performance.

XII. Place of Performance, Jurisdiction, Applicable Law

1. The place of performance for our deliveries shall be our warehouse. The place of jurisdiction shall be the court having subject-matter jurisdiction at our company seat. At our discretion, we may also file an action against the Buyer at his own place of jurisdiction.
2. All legal relationships between us and the Buyer shall be governed by the laws of the Federal Republic of Germany, excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG).

XIII. Applicable Version

In cases of doubt, the German version of these General Conditions of Sale shall apply.