

General Terms and Conditions of Purchase of Standard-Metallwerke GmbH

Translation:

This is document is a translation of the original German document dated Oct 2005. In case of doubts the German issue understood as the legal binding version.

Delivery Instructions:

Please state order number and reference in acceptances of orders, delivery notes, dispatch notes and correspondence. Invoices in two copies by mail.

Note Concerning Forwarding:

The recipient is RVS/SVS prohibition customer. Rail freight, express deliveries and general cargo are to be directed to Soest. Truck shipments are to be directed to Werl, Rüstige Straße 11.

1. Area of Application

1.1 These General Terms and Conditions of Purchase shall be applied with the express exclusion of any general terms and conditions of the suppliers and subject to deviating agreements in writing to all purchases made and services received by Standard-Metallwerke GmbH from suppliers. This shall also apply to future deliveries and repeat orders. If a supplier does not want to accept these General Terms and Conditions of Purchase, he shall inform Standard-Metallwerke GmbH accordingly in writing within a period of 5 working days after receipt of the first purchase order or order from Standard-Metallwerke GmbH and refuse the order acceptance. Apart from that, general terms and conditions of the supplier deviating from these General Terms and Conditions of Purchase shall only become part of a contract upon the express consent of Standard-Metallwerke GmbH in writing. Neither silence nor the acceptance of a delivery or service by Standard-Metallwerke GmbH shall be interpreted as the acceptance of conflicting conditions of the supplier.

1.2 In addition to these General Terms and Conditions of Purchase only the following provisions and laws shall apply in the following ranking: The INCOTERMS of the International Chamber of Commerce in Paris, the German Commercial Code, the German Civil Code, as amended.

2. Scope of the Order, Written Form

2.1 The exclusive basis for kind and scope of the deliveries and services ordered by Standard-Metallwerke GmbH shall be the written purchase order placed by Standard-Metallwerke GmbH. In order to take effect, agreements deviating from this purchase order or other contractual agreements must be made in writing. Any correspondence shall have to be exclusively exchanged with the ordering purchase department.

2.2 A binding contract shall only be concluded, if the Standard-Metallwerke GmbH purchase order is confirmed by the supplier within an appropriate period of time or if the supplier has executed the Standard-Metallwerke GmbH purchase order without any reservation and correctly. This shall not apply insofar as telephonic or oral agreements are customary in metal trade.

3. Prices, Packaging

3.1 The agreed prices shall be fixed prices excluding legal value-added tax, however, including customs duties or other taxes and charges. They are to be understood free delivery address including freight and packaging costs.

3.2 If agreement was made that the supplier has to ship the goods at the expense of Standard-Metallwerke GmbH, Standard-Metallwerke GmbH shall only bear the shipping cost what are customary in the particular market.

3.3 If Standard-Metallwerke GmbH returns packaging to the supplier which is in good condition, Standard-Metallwerke GmbH shall receive a refund of 4/5 of the value stated in the invoice. The return shall be effected carriage paid within an appropriate period of time. Other return instructions must be particularly highlighted on the delivery note.

4. Warranty, Time Periods, Quality Assurance

4.1 The delivery made or service rendered shall have to be free of material defects and defects of title. In particular, it must correspond with the intended purpose, the generally accepted engineering standards, the relevant legal or official regulations and possible guidelines of professional associations. The supplier shall be responsible for the fact that the delivery or service will not violate any industrial

property rights of third parties and shall indemnify Standard-Metallwerke GmbH against claims of third parties that are based on such infringements.

4.2 The warranty period shall be 3 years from delivery or acceptance of delivery, unless laws require a longer warranty period. In case of a particularly agreed warranty, Standard-Metallwerke GmbH shall be entitled to the rights from the warranty irrespective of the legal claims and those stipulated herein. As far as warranty claims are concerned, the legal provisions on the statute of limitation shall apply. After a successful supplementary performance (removal of defect or replacement delivery), the warranty periods shall start from the beginning again.

4.3 In case of justified notices of defects, Standard-Metallwerke GmbH may assert warranty claims at their discretion. Returns by Standard-Metallwerke GmbH shall be made freight forward and at the risk of the supplier. Payment of a delivery or service shall not be considered as an acknowledgement of the absence of defects.

4.4 The supplier agrees to maintain a quality assurance system corresponding with the accepted engineering standards for the products to be delivered to or the services to be rendered for Standard-Metallwerke GmbH and, in particular, to carry out expert production and exit and acceptance controls. The obligation of Standard-Metallwerke GmbH to examine incoming deliveries or finished works with regard to material defects and defects of title shall be limited to the cases of obvious deviations in quantity, quality and identity that are recognizable by visual inspections of the delivered items. Standard-Metallwerke GmbH shall have to carry out such receiving controls only when taking goods from stock in the course of normal production. Standard-Metallwerke GmbH shall be released from the obligation to examine the goods when the supplier enclosed analysis certificates. In other cases, the supplier shall indemnify Standard-Metallwerke GmbH from product liability claims of third parties insofar as the delivery or service - whether processed or unprocessed - has resulted in a liability of Standard-Metallwerke GmbH.

4.5 If a claim for producer liability is asserted against Standard-Metallwerke GmbH because of a defect in the goods delivered by the supplier, the supplier shall have to indemnify Standard-Metallwerke GmbH against the producer liability resulting from such defect.

5. Behaviour on the Works Premises, Secrecy

When entering the works premises of Standard-Metallwerke GmbH, the supplier shall follow any existing accident prevention regulations and the additional instructions of Standard-Metallwerke GmbH. The supplier agrees to confidentially treat all works and business secrets the supplier is becoming aware of and to neither utilize the same nor to hand them down to any third party. The supplier shall oblige his ancillary staff to act accordingly.

6. Force Majeure, Delivery Term

6.1 If and insofar as the non-acceptance, the untimely acceptance or the improper acceptance of a delivery or service by Standard-Metallwerke GmbH is based on force majeure, Standard-Metallwerke GmbH shall be released from their contractual obligations for the time of the act of force majeure and its extent. Events of force majeure in particular shall be operational disruptions, exceeded delivery terms or failures of other suppliers, lack of energy or raw material, obstructions of traffic, official decrees, labour disputes, riot, war, natural disasters, fire, flooding, etc. The above mentioned circumstances shall not be answered for by Standard-Metallwerke GmbH, even if they occur during an already existing delay. If the acceptance of a delivery or service is delayed by more than four months because of an event of force majeure, any contractual party shall be entitled to withdraw from contract to the exclusion of all further claims with regard to the quantity or performance affected by the impediment to delivery.

6.2 Purchase orders shall have to be executed as of the agreed deadline. Standard-Metallwerke GmbH shall not be obliged to accept any partial services or deliveries, unless the non-acceptance in individual cases would be a violation of good faith. Delays in the execution of a purchase order or of an order shall be communicated by the supplier immediately after recognizing such a delay. When deadlines are not met,

Standard-Metallwerke GmbH shall reserve the right to assert their legal rights and remedies.

7. Ownership Structure

7.1 Items made available to a supplier by Standard-Metallwerke GmbH in the scope of an order, shall remain the property of Standard-Metallwerke GmbH. Treatment or processing shall be carried out under exclusion of the acquisition of ownership according to § 950 BGB (German Civil Code) insofar as this is legally permissible. The supplier agrees that items made available to him by Standard-Metallwerke GmbH for processing shall be stored and held physically distinct from the remaining stock and be labelled with the visible information that the items continue to remain the property of Standard-Metallwerke GmbH. Additionally, the supplier agrees to treat such items with the diligence of a reasonably acting businessman and to insure the items against destruction and theft in the customary manner.

7.2 If the items are inseparably joined to, mixed with or processed with other items that are not the property of Standard-Metallwerke GmbH, Standard-Metallwerke GmbH shall have a co-ownership in the item in the ratio which exists between the cost value of the items made available by Standard-Metallwerke GmbH and the other materials process plus the processing costs. This shall accordingly apply, if Standard-Metallwerke GmbH makes available goods belonging to a third party.

7.3 The supplier shall have to examine items made available with regard to material defects and defects of title after receipt of the same and to immediately inform Standard-Metallwerke GmbH about any complaints. The supplier may only process flawless items and in doing so shall have to proceed properly.

8. Payment

8.1 Unless any other agreements have been made, Standard-Metallwerke GmbH shall pay invoices received from the 1st to the 15th of a month on the 25th of that month and invoices received from the 16th to the 31st of a month on the 10th of the following month less 3% cash discount.

8.2 Payments made by us shall not be deemed as an acceptance of invoicing.

9. Tool Costs, Means of Production, Information

9.1 Tools and devices the supplier purchases for the production of the ordered goods as well as their maintenance and replacement shall be borne by the supplier. After execution of the order, Standard-Metallwerke GmbH shall be entitled to purchase such tools and devices against payment of the cost price (where appropriate taking wear into account).

9.2 The supplier may only use models, samples, templates, tools and the like, patterns and other information from Standard-Metallwerke GmbH for third party orders after obtaining the advance consent in writing from Standard-Metallwerke GmbH to do so.

10. Labour Safety and Environment

The trade associations' regulations concerning occupational safety and health (BGV A1) - in particular § 5 (award of contracts) - shall be followed and shall be part of our purchase order.

11. Place of Performance, Place of Jurisdiction

Place of performance and place of jurisdiction for all contractual relations between Standard-Metallwerke GmbH and the suppliers shall be Werl/Westphalia and/or the superior district court. Standard-Metallwerke GmbH shall also be entitled to file a suit at the place of the supplier's head office.

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