

General Conditions of Sale of esco Metallbausysteme GmbH

(as of 01/2020)

I. Content/scope of the contract

1. The following General Terms and Conditions of Sale and Delivery apply to the handling of all our deliveries of goods and the services associated therewith. Any other agreements will only be valid if confirmed in writing by the Seller.
2. The following General Terms and Conditions of Sale and Delivery apply within the framework of current business relations. In the case of ongoing business relations, our General Terms and Conditions of Sale and Delivery shall also apply to future business transactions, which do not expressly refer to them, provided that they have been received by the Purchaser in an earlier order confirmed by us.
3. Any contrary or conflicting general terms and conditions of the contracting partner, hereinafter referred to as the Purchaser, shall not bind the Seller, even if the Seller does not expressly object to them. Our General Terms and Conditions of Sale and Delivery shall also apply even if we carry out the delivery to the Purchaser without reservation in the knowledge that the Purchaser's terms and conditions are contrary to our General Terms and Conditions of Sale and Delivery.
4. Side agreements are only valid if they are confirmed in writing by the Seller. This also applies to any amendment or cancellation of the above written form itself.
5. Our following terms and conditions of sale shall only apply to a company within the meaning of Section 14 of the German Civil Code, legal entities under public law or special funds under public law within the meaning of Section 310, Para. 1 of the German Civil Code.

II. Offer, prices, payments

1. Orders are possible from a net goods value of € 50 ("minimum order value"). Any orders below the minimum order value will be invoiced at the same.
2. Payment must be made net cash immediately after delivery and proper invoicing. Any other terms of payment agreed are only permissible to the extent that no undisputed invoices that are already due are outstanding.
3. The date of receipt of payment shall be decisive for the timeliness of payment.
4. The Purchaser shall be in default even without a reminder if he fails to meet agreed payment deadlines. In all cases of default of payment, the Seller shall be entitled to demand interest on arrears at the base interest rate set by the ECB. The Seller reserves the right to claim higher damages caused by default.
5. In all cases, the Seller shall only be held to fulfil assumed obligations if the creditworthiness of the Purchaser is sufficient and, in case of doubt, may make delivery dependent on cash in advance or prior provision of securities and declare that delivery will only be made against cash on delivery. The Seller is authorised to obtain such information. Should the financial circumstances of a Purchaser significantly deteriorate or such a deterioration becomes known subsequently, the Seller may demand immediate payment even if the Purchaser has been granted a payment term. In this case, the Seller also has the right to withdraw from the contract.
6. In the absence of a fixed price agreement, the Seller reserves the right to make reasonable alteration in prices due to changes in wage, material and operating costs for deliveries made three months or longer after the conclusion of the contract.

III. Set-off and right of retention

1. The Purchaser may only offset against a claim that is undisputed or legally established.
2. The Purchaser is only entitled to a right of retention if the claims originate from the same contractual relationship. Further rights of retention are excluded.
3. The Purchaser may only assign any claims against the Seller with the Seller's prior written consent.

IV. Delivery time and delivery

1. Only expressly agreed delivery dates are binding for us. Our written order confirmation is decisive. Subsequent changes accepted by us will postpone agreed delivery dates by a reasonable period of time to a later date, de-

pending on the scope of the requested changes, provided that we have again expressly confirmed in writing that the originally agreed date will be met.

2. Compliance with our delivery dates is subject to the availability of supplies and our own supplies. Compliance with delivery dates always presupposes that the Purchaser has fulfilled all obligations incumbent upon him.
3. Delivery is always ex works. The mode of dispatch is at the discretion of the Seller.
4. In the case of voluntary returns of goods, at least 20% of the value of the goods will be charged as a handling fee. We reserve the right to make further deductions for depreciation of voluntarily returned goods. The Purchaser is free to prove that we did not suffer a reduction in value or that it was significantly lower than we claimed. All returns must be discussed with the Seller before dispatch. The returns shall be made free of charge.
5. Goods that have been specially manufactured or procured for the Purchaser are excluded from voluntary return.
6. If the Purchaser defaults on acceptance of the goods, the Seller is entitled to set a reasonable grace period and, after this period has expired, to withdraw from the contract and/or demand compensation. In this case, the Seller can demand a flat-rate compensation of 20% of the purchase price without the need for special proof, unless the Purchaser can prove that no damage at all or a damage significantly lower than the lump sum has occurred.
7. Acceptance of returned goods requires our written consent.

V. Product details

1. Dimension, weight and performance data as well as illustrations are only approximate and non-binding, unless they are expressly designated as binding. Warranties and specifications of properties require an express written declaration.
2. The agreed quality of the subject matter of the contract owed by us results exclusively from the contractual agreements with the Purchaser. Samples, prospectus details or information resulting from other advertising material do not constitute any assumption of guarantees of durability or quality within the meaning of Section 443 of the German Civil Code. Changes and errors in the above-mentioned documents are reserved. Illustrations are only similar to the delivered goods. The reference to technical standards is intended only to describe the performance; it is not to be interpreted as a guarantee of quality. We reserve the right to make changes to the implementation, material, choice and design, profile design and other changes that serve the purpose of technical progress within the scope of what is reasonable - even without prior notice - at any time. We reserve the right of ownership, patent, design patent and copyright for illustrations, drawings, drafts, constructions, calculations and other documents. This also applies to those documents which are designated as "confidential". Before passing them on to third parties, the Purchaser requires our express written consent. The Purchaser expressly acknowledges all property rights to which we are entitled.

VI. Transfer of risk

1. The risk shall pass to the Purchaser when the goods are handed over to the forwarding agent or carrier, at the latest, however, when the goods leave the Seller's warehouse or his works, even if partial deliveries are made or the Seller has taken over other services.
2. If dispatch is delayed due to circumstances for which the Purchaser is responsible or at his request, the risk shall pass to the Purchaser from the date of readiness for dispatch. However, the Seller is obliged to insure the goods stored at the Seller's premises in accordance with the Purchaser's specifications at the Purchaser's express written request and expense.
3. The above provision shall also apply in cases, where a delivery date has not been agreed, with the proviso that

the risk shall pass to the Purchaser at the beginning of the second day after dispatch of the notice of readiness for dispatch.

4. The unloading of the delivery is always the responsibility of the Purchaser. It must be carried out immediately by the Purchaser. Any unloading by the forwarder or carrier or its assistance in unloading shall be exclusively at the risk and expense of the Purchaser.

VII. Packing/pallets

1. The type of packaging is at our discretion. Simple packaging as well as boxes and crates will be charged to the Purchaser at our current packaging prices. In the case of deliveries abroad, the Purchaser is obliged to ensure disposal of this packaging at his own expense, unless it is reusable packaging.
2. Euro pallets, reusable spools and other reusable containers and packaging shall initially be charged to the Purchaser at our packaging prices applicable in each case. In the case of freight-free return in reusable condition within six weeks of delivery, they will be credited at 100% of the calculated value.
3. Unless expressly agreed otherwise, long steel pallets, reusable pallets together with accessories, reusable packaging and other transport aids remain the property of the Seller. They must be handled with care, marked as our property and may not be used for any purpose other than the storage of the delivered goods. The Seller is entitled to demand the return of the transport aids at any time. The Purchaser shall make the conveying equipment available for collection on the date specified by the Seller. If they are not handed over on time or not in an undamaged condition and the Purchaser is responsible for this, we are entitled to charge the Purchaser for them at the current price for a corresponding brand-new conveying aid of the same design, unless the Purchaser can prove that we have suffered a lower damage. These amounts are due immediately without deduction.

VIII. Retention of title

1. The delivered goods remain the property of the Seller until full payment of the purchase price, including all ancillary claims, and until payment of all other claims arising from the business relationship with the respective Purchaser. Until then, the Purchaser is not entitled to pledge the goods to third parties and to assign them as security. The Purchaser shall store the goods, which are subject to retention of title, free of charge for the Seller.
2. If the Purchaser processes, combines and mixes the goods, which are subject to retention of title, with other goods, the Seller shall acquire co-ownership of the new object in the ratio of the invoice value of the goods subject to retention of title. The rights of co-ownership arising from this shall be deemed to be goods subject to retention of title within the meaning of paragraph 1.
3. In the case of goods, which the Purchaser has to install as an essential component in a building of a third party on the basis of a contract for work and services, the Purchaser assigns to us his claim under the law of obligations to the creation of a security mortgage in the value of the goods (final invoice amount including value added tax).
4. The Purchaser is entitled to sell the reserved goods in the ordinary course of business, unless he is in arrears with payments to the Seller. The Purchaser assigns to the Seller already at this point in time all claims against third parties arising from the resale of the goods subject to retention of title. The Seller hereby accepts the assignment. If the reserved goods are sold after processing, combining or mixing, the assignment of the claim from the resale shall only apply up to the amount of 110% of the value of the goods, which are subject to retention of title and are invoiced to the Purchaser by the Seller, including the statutory value added tax. The same applies if the goods subject to retention of title are sold together with other goods which do not belong to the Seller.
5. The Purchaser is authorised to collect these claims even after the assignment. The Seller may restrict this authorisation to collect for legitimate interests and revoke it for

good cause, in particular in the event that the Purchaser is in arrears with payments, e.g. if an application for insolvency is filed. The Seller can demand that the Purchaser informs him of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors of the assignment. The Seller may also disclose the assignment himself.

6. The Seller undertakes to release the security, to which he is entitled in accordance with the above provisions, at his discretion and at the request of the Purchaser to the extent that its realisable value not only temporarily exceeds the claims to be secured by 10% or more.
7. The Purchaser hereby declares his agreement that the persons commissioned by the Seller to collect the goods subject to retention of title may enter and drive on the property or building on or where the items are located for this purpose.
8. The Purchaser shall immediately notify the Seller in writing of any seizure, execution or other measures taken by third parties that affect the Seller's property rights. Failure to do so shall result in the immediate maturity of the entire remaining debt, even if bills of exchange with a later maturity date are outstanding. The Purchaser shall bear the costs of measures to remedy any third-party interventions, in particular any investment processes.
9. The treatment, processing or transformation of the object of sale by the Purchaser is always carried out in the name and on behalf of the Seller. In this case, the expectancy of the Seller to the object of purchase shall continue in the transformed object. If the purchased item is processed with other objects not belonging to the Seller, the Seller shall acquire co-ownership of the new item in the ratio of the objective value of the purchased item to the other processed objects at the time of processing. The same shall apply in the event of mixing. If the mixing is carried out in such a way that the Purchaser's item is to be regarded as the main item, it is deemed to be agreed that the Purchaser shall transfer co-ownership to the Seller on a pro rata basis and shall keep the resulting sole ownership or co-ownership for the Seller. In order to secure our claims against the Purchaser, the Purchaser also assigns to us such claims, which accrue to him against a third party through the connection between a property and the goods subject to retention of title. The Seller accepts this assignment now.

IX. Warranty and liability

1. The agreed quality of the subject matter of the contract owed by us results exclusively from the contractual agreements with the Purchaser. Samples, prospectus details or information resulting from other advertising material do not constitute any assumption of guarantees of durability or quality within the meaning of Section 443 of the German Civil Code. Changes and errors in the above-mentioned documents are reserved. Illustrations are only similar to the delivered goods. The reference to technical standards is intended only to describe the performance; it is not to be interpreted as a guarantee of quality.
2. In particular, the Seller does not guarantee that the goods ordered by the Purchaser are suitable for his intended purpose. The intended use of the goods under the contract shall be governed by the relevant operating instructions. The same shall apply to the normal use of the goods. During the warranty period, the Seller shall, at his discretion, either repair the defective goods or provide a replacement for the defective goods (collectively referred to as "subsequent performance"). If the subsequent performance fails within a reasonable period of time after the Seller has initiated it, the Purchaser may, at his discretion, withdraw from the contract or reduce the purchase price. In addition, the Purchaser may demand compensation from the Seller in accordance with VIII para. 7 if the legal requirements for this are met.
3. The warranty period is 12 months from delivery.
4. Information in catalogues, operating instructions, etc. only contain a non-binding description of the respective goods and do not constitute a guarantee declaration. The assurance of guarantees requires a written confirmation of the Seller to be effective.
5. Obvious defects or other complaints regarding the delivery item - including the absence of guaranteed or assured characteristics - must be reported to the Seller in

writing without delay, at the latest within three working days of receipt of the delivery item. This also applies to defects occurring later. These must also be reported immediately, at the latest 3 working days after being detected. Otherwise, the goods shall be deemed approved. The notification of such a defect must be received by the Seller in writing within the above period. Otherwise, Section 377 of the German Commercial Code shall apply.

6. Warranty or liability is excluded for damages due to natural wear and tear, improper operation, negligent handling, excessive strain as well as non-observance of operating or usage instructions.
7. The Seller is not liable for the delivered goods being suitable for the purposes envisaged by the Purchaser.
8. Any claims for damages by the Purchaser against the Seller, his legal representatives or his vicarious agents are excluded, unless they are based on intent or gross negligence. In the event of negligent breach of a material contractual obligation, we shall be liable in accordance with the statutory provisions. Essential contractual obligations are those obligations, whose fulfillment makes the proper execution of the contract possible in the first place and on whose compliance the Purchaser regularly relies and may rely. In this case, however, the claims for damages are limited to the foreseeable, typically occurring damage. The typically occurring damage does not exceed € 500,000 in any case of damage. Unless otherwise stated above, the Purchaser's claims for damages are excluded, regardless of the legal basis. The above limitations of liability shall not apply if our liability is mandatory due to the provisions of the Product Liability Act, life, body and health have been injured or claims for damages are asserted against us due to the absence of a guaranteed quality or fraudulent concealment of a defect. In the absence of a guaranteed quality, we shall only be liable for such damage, whose absence was the subject of the guarantee.
9. Warranty claims are excluded if they are based on the fact that there is only an insignificant deviation from the agreed quality, only an insignificant impairment of usability, natural wear and tear or wear and tear as in the case of damage that occurs after the transfer of risk as a result of incorrect or negligent handling, excessive strain, unsuitable operating materials, defective construction work, unsuitable building ground or due to special external influences that are not provided for under the contract. Likewise, no claims for defects shall exist in the case of subsequent improper repairs, modifications and the like.
10. Any complaint of defects is excluded after processing of the goods and start of any cutting work.

X. Place of performance and jurisdiction

1. The place of performance and jurisdiction for the obligations of both Parties arising from all relationships is Ditzingen, Germany, if the contracting partner is a merchant or a legal entity under public law. This also applies to actions on bills of exchange and cheques.
2. If the Seller sells goods on the Internet and neither the Seller nor the Purchaser uses digital signatures, any disputes arising in connection with these online transactions shall be settled - at the Seller's discretion - in accordance with the Rules of Arbitration of the German Institution of Arbitration under exclusion of the ordinary course of law. The place of arbitration is the seat of the Seller. The number of arbitrators shall be 3. The language of the arbitration proceedings shall be German. The arbitration panel shall admit electronic documents as evidence. The dispute shall be decided in accordance with German law.
3. German civil law shall apply in substantive terms. The application of the CISG (Convention on the International Sale of Goods) is excluded.
4. Should a provision in these General Terms and Conditions of Sale and Delivery or a provision within the framework of other agreements be or become invalid, the validity of all other provisions or agreements shall not be affected.