

# General Terms and Conditions of Payment and Delivery

## 1. Terms and Conditions of Contract

Our offers are subject to change. Transactions and agreements shall only become binding for the Seller through a written order confirmation. Other conditions or agreements require our special written acknowledgement.

Any differing or supplementary general terms and conditions of contract of the Buyer shall not become part of the Contract.

They shall then also not be recognised if the Seller does not expressly object to them again after receipt. These Terms and Conditions of Contract shall be deemed to have been accepted at the latest upon acceptance of the goods. These conditions shall also apply to future transactions, agreements and deals. The law of the Federal Republic of Germany shall apply to all legal relations with us. Furthermore, if no other provisions have been agreed in these Terms and Conditions, the effective version of Incoterms 2010 shall apply to the interpretation of the various contractual clauses. German law (the law of the German Civil Code) shall apply.

## 2. Price, Payment, Security

The prices are ex warehouse or ex works plus carriage and value added tax unless otherwise agreed. All taxes and other charges incurred in the recipient country for our deliveries and performances shall be borne by the Buyer.

Payment shall be effected net cash within 30 days. We only grant discount by agreement and not before our other due claims have been settled. Periods allowed for payment and discount periods shall run from the invoice date. Compliance with the time periods shall be determined by the date on which payment is received.

If the Buyer ceases its payments, overindebtedness exists or an application has been made to institute composition or insolvency proceedings or the Buyer defaults on cashing or honouring a due bill or cheque or the Buyer does not comply with the agreed terms of payment, the total claim of the Seller shall become due immediately. The same shall apply if there is a significant deterioration in the Buyer's financial circumstances. In these cases, the Seller shall be entitled to demand the furnishing of sufficient security or withdraw from the Contract.

If the Buyer defaults on its payment obligation in whole or in part, it shall – irrespective of any other rights of the Seller – pay interest on arrears from this point in time to a sum of 8 percentage points per annum above the base rate according to § 1 of the German Discount Transfer Law (Diskontüberleitungsgesetz).

## 3. Risk, Delivery

Any risk shall pass to the Buyer when the goods leave our dispatch office even if they are delivered with our lorry or delivered carriage by a haulage contractor or the Buyer collects them itself. The Buyer may not refuse part deliveries. For dispatch we decide the haulage contractor, carrier and transport route. If dispatch or delivery is delayed at the request of the Buyer or for reasons for which the Buyer is to blame, the risk shall pass to the Buyer for the period of the delay; however, the Seller shall be obliged to take out the insurance demanded by the Buyer at the Buyer's request and expense. A delivery shall not be insured against theft, breakage, transport or fire damage unless the Buyer has specially requested it. If the Buyer requests that insurance be taken out, it shall be taken out at the expense of the Buyer. To settle transport damage, it is necessary that the Buyer (recipient) jointly arranges for an official report to be prepared without delay with a representative from the transport company in order to determine the scale of the damage. The Buyer shall inquire about the respective terms of the transporting company.

## 4. Delivery period, Terms of delivery, Default

Delivery periods and dates always only refer to the approximate time of delivery ex works or ex warehouse. Delivery periods are only binding if they have been expressed confirmed as binding by the Seller. The delivery period shall commence on the day on which agreement has been reached in writing between the Buyer and the Seller with regard to the order. The delivery period shall be deemed to have been complied with if the goods have left the factory or the warehouse within the time period. If dispatch or collection is delayed for reasons for which the Seller is not to blame, the deadline shall be deemed to have been complied with if readiness for dispatch is notified within the agreed period.

If non-compliance with the deadline can provenly be attributed to mobilisation, war, revolution, strikes, strikes in third-party companies, lockouts, lockouts in third-party companies, incorrect or unpunctual delivery by subcontractors or the occurrence of unforeseen hindrances which are outside the control of the Seller or its subcontractors, the deadline shall be extended appropriately. Compensation claims by the Buyer shall be excluded in all cases, even after the expiry of any final deadline set for the Supplier. This does not apply if liability is mandatory in cases of intent or gross negligence. Furthermore, the right of the Buyer to withdraw after the fruitless expiry of a reasonable extension granted to the Seller shall not be affected.

If the Buyer causes a delay in the dispatch or delivery of the delivery items, the Seller shall be entitled to charge the resultant additional costs to the Buyer. The Buyer may only then assert claims due to default if it does not itself default on an obligation arising from the business connection.

## 5. Weight, Number of Items, Dimensions, Deviations

A deviation in the weight, number of items or specification of the delivered goods from our data in the delivery note and invoice must be proven by the Buyer.

Depending on the type of goods, we are allowed to carry out deliveries which exceed or fall short of the agreed weights or number of items by up to 10%. The DIN and EN standards or otherwise the admissible deviations which are customary in the trade shall apply to the above-mentioned dimensions.

## 6. Freight, Packaging

When the dispatch is sent by us there are generally proportional freight costs charged. Packing costs will be invoiced according to time spent.

## 7. Minimum order value

The minimum order value is € 150

## 8. Retention of title

The goods shall remain the property of the Supplier until all the claims to which the Supplier is entitled vis-à-vis the Buyer have been settled (reserved goods) even if individual goods have been paid for. The pledging or assignment of the reserved goods as security is not admissible.

In the event of the resale or leasing – admissible within the scope of ordinary business dealings – of the reserved goods to the Seller, the Buyer shall hereby already assign by way of security the future claims accruing to it vis-à-vis its customers from resale or leasing until all the claims of the Seller have been settled without any special declaration being required at a later date. The assignment shall also extend to balance claims arising within the scope of existing current account relations or in the event of the termination of such relations of the Buyer with its customers. If the reserved goods are resold or leased together with other items without an individual price having been agreed for the reserved goods, the Buyer shall, with priority over the other claim, assign that portion of the total price claim and/or the total rent to the Seller that corresponds to the price of the reserved goods invoiced by the Seller. Until revocation, the Buyer shall be authorised to collect the assigned claims arising from the resale or leasing; however, it is not entitled to otherwise dispose of them, e.g. through assignment. At the request of the Seller, the Buyer shall notify the customer of the assignment and hand over to the Seller the documents required to assert its rights vis-à-vis customers, e.g. invoices, and supply the necessary information. All costs for collection and any interventions shall be borne by the Buyer. If the Buyer receives bills on the basis of the authorisation granted to it to collect the assigned claims arising from the resale, ownership of these documents with the vested title shall be transferred to the Seller by way of security. The transfer of bills shall be replaced by an agreement that the Buyer will take them into safekeeping for the Seller and then surrender them to the Seller endorsed without delay. Should the counter value of the claims assigned to the Supplier be received by the Buyer or a bank of the Buyer in cheques, the Buyer shall be obliged to report the receipts and transfer them. Ownership of the cheques shall pass to the Seller with the vested title as soon as the Buyer receives them. The transfer of bills shall be replaced by an agreement that the Buyer will take them into safekeeping for the Seller in cash in order to then surrender them to the Seller endorsed without delay. If the Buyer processes the reserved goods, transforms them or combines them with other items, the processing, transformation or blending shall be carried out for the Seller. The

### **Special notice: Packaging ordinance from 01.12.91.**

We take back our transport packaging provided it is returned to us carriage paid.

### **Assemblies Regulation from 07.01.2013**

According to the regulation modules we provide corresponding aluminium semi-finished products with a declaration of performance and CE marking.

This requires that the customer has explicitly ordered CE-marked material according to the assemblies Regulation and DIN 15088.

Seller shall immediately become the owner of the item produced through processing, transformation or combination. Should this not be possible for legal reasons, the Seller and the Buyer are agreed that the Seller shall become the owner of the new item at any time of processing, transformation or combination. The Buyer shall hold the resultant new item in safe custody for the Supplier with the diligence of a prudent businessman. The item created through processing, transformation or combination shall be deemed reserved goods. When processed, transformed or combined with other items that do not belong to the Seller, the Seller shall be entitled to joint title to the new item in the amount of the share arising from the ratio of the value of the processed, transformed or combined reserved goods compared to the value of the new item.

Should the new item be sold or leased, the Buyer shall hereby assign its claim arising from the sale or leasing vis-à-vis its client with all accessory rights to the Seller by way of security without a subsequent special declaration being required. However, the assignment shall only apply up to the sum of the amount which corresponds to the value of the processed, transformed or combined reserved goods invoiced by the Seller. The portion of the claim assigned to the Seller shall take priority over the other claim.

If the Buyer defaults on its payment deadline or on cashing in or honouring due bills or cheques in whole or in part, overindebtedness or payment restrictions apply or an application has been made for the institution of composition or insolvency proceedings, the Seller shall be entitled to take all the goods still subject to the retention of title for itself immediately and it may assert any other rights arising from the retention of title immediately; the same applies to any other significant deterioration in the financial circumstances of the Buyer. The Buyer shall grant the Seller or its representative's access to all its business premises during office hours. The demand for surrender or taking possession does not constitute withdrawal from the Contract. The Seller shall be entitled to utilise the reserved goods with the diligence of a prudent businessman and use the proceeds to settle claims whilst offsetting against any outstanding claims.

If the value of the security exceeds the claims of the Seller vis-à-vis the Buyer arising from the current business connection by more than 20% in total, the Seller shall be obliged at the request of the Buyer to release the security that it holds at its discretion.

## 9. Warranty

Defects, incorrect deliveries and shortfalls must, if they can be identified by means of reasonable inspections, be reported without delay, but at the latest 2 weeks after receipt of the goods. If a defect becomes apparent at a later date that was not visible during the first inspection, it must be reported in writing without delay, but at the latest 2 weeks after its discovery. If the Buyer fails to report the defect on time, the goods shall be deemed approved taking into account the defect. The same applies if the Buyer does not allow us to carry out a proper inspection of the defect at our request without delay. If the item is defective upon surrender to the Buyer, the Buyer may at its discretion demand the rectification of the defect or the delivery of a non-defective item as subsequent performance. We shall be entitled to refuse the type of subsequent performance chosen by the Buyer if this is only possible with disproportionate costs. The Buyer shall then be restricted to another form of the right to subsequent performance. The Seller may also object to this right by using the plea of disproportionately high costs, with the result that the right to subsequent performance then ceases to apply altogether. If efforts to rectify the defect or supply a replacement fail, the Buyer may at its discretion demand a reduction of the fee or cancellation of the Contract.

The Buyer shall grant the Seller the necessary time and opportunity to rectify the defect at its reasonable discretion. If the Buyer refuses to do this, the Seller shall be released from rectifying the defect. Liability for defects does not refer to natural wear and tear or to damage resulting after the transfer of risk from incorrect or negligent handling, overstraining or such thermal, chemical, electrochemical or electrical influences that are not a premise of this Contract.

The warranty shall expire if the delivery item has suffered due to improper handling or storage or if modifications or repairs have been made to it without the written consent of the Seller and the modifications or repairs have led to the defect. The parts replaced when meeting these warranty obligations shall become the property of the Seller when they are removed.

Other claims of the Buyer vis-à-vis the Seller and its vicarious agents are excluded, especially claims to the reimbursement of damage not suffered by the delivery item itself. This does not apply if liability is mandatory in cases of intent, gross negligence or the omission of guaranteed features.

Moreover, the warranty rights of the Buyer shall conform to the statutory provisions. The statutory warranty period is 1 year and starts upon delivery of the goods.

## 10. Repurchase of goods.

The repurchase of goods which have been delivered but are not defective shall only take place with the prior consent of the Seller. The Seller shall reserve the right to deduct at least 15% of the refundable amount for any administrative costs incurred thereby. Fix material, blanks and customized features can not be returned or exchanged.

## 11. General liability restriction

Unless mandatory statutory provisions preclude it, we recognise claims for damages of any type only in the event of our own intent or gross negligence and only to the extent of the cover and indemnification through our third-party liability insurance. If residual claims for damages are not covered by this insurance – such as arising from default and impossibility – our liability shall be restricted to an amount that corresponds to the price of our affected delivery or performance.

## 12. Privacy Policy

The AMCO Metall-Service GmbH points out that insofar as data are made available, they will be processed only to respond to inquiries, orders, shipments, and for technical administration. The personal data to third parties or otherwise transferred only if it serves the purpose of the contract - is needed - especially the transmission of orders to suppliers or shippers. The company AMCO Metall-Service GmbH is entitled to review your data by General Credit Protection Agency, such as Creditreform.

The data will be used exclusively by employees and authorized dealers of the company AMCO Metall-Service GmbH or its affiliates. We point out that data transmission over the Internet (eg communication by e-mail) can have security gaps. A complete protection of data against access by third parties is not possible. The processing and storage of data complies to the German data protection laws.

## 13. Export Control

The customer will ensure in particular that is not one of us delivered goods destined for armaments-related, nuclear technology or weapons (including the Missile Technology), provided for a delivery to any of these uses an effective export permit from the competent export control authorities has not been granted. The contract with us is subject to compliance there are no restrictions or prohibitions on the basis of national, supranational or international foreign trade and customs requirements or any embargos or other sanctions.

## 14. Validity and commencement

These terms and conditions will be effective immediately in effect and supersede all previous terms and conditions or terms and conditions.

## 15. Performance, Place of jurisdiction

If the Buyer is a merchant, legal entity under public law or special fund under public law, the exclusive place of performance and exclusive place of jurisdiction for all disputes arising from this Contract is Bremen. The same applies if the Buyer does not have a general place of jurisdiction in Germany.

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