

TERMS AND CONDITIONS OF SALE, PAYMENT, AND DELIVERY



of STG Stanztechnik Gesellschaft mbH & Co. KG, Sonnenring 35, 84032 Altdorf

-hereinafter referred to as STG -
(version March 2011)

To be applied to any agreement with:

1. a person acting in performance of her/his commercial or self-employed professional trade (entrepreneur) when entering into any respective agreement
2. any public legal entity or any public separate estate.

These Terms and Conditions of Sale, Payment, and Delivery shall apply to all future orders as well. Any incorporation of conditions to the contrary is hereby expressly objected to.

I. Offer, Items Included in Delivery

1. Any descriptive documents pertaining to any respective offer, such as pictures, drawings, and particulars as to weight and measures, shall only be deemed to be rough standards unless explicitly identified as binding standards under any respective agreement.
2. No order/purchase shall be deemed effective until it has been confirmed in writing by STG. Until then, any documents relating to any offer by STG shall be non-binding.
3. STG hereby reserves to itself all of its property and copyright interests in any cost estimates, drawings and other descriptive documents.
4. Such descriptive documents pertaining to any respective offer shall not be made accessible to any third party. Plans marked confidential by STG shall only be made accessible to any third party by the orderer after having obtained STG's consent thereto unless the contracting parties have agreed otherwise in writing.
5. STG's written acknowledgment of any respective order shall determine the content of any respective agreement and the scope of any performance due thereunder.
6. The parties have not entered into any ancillary agreements by word of mouth.
7. Any ancillary agreement and any modification of any respective agreement shall be subject to STG's written acknowledgment thereof.

II. Prices and Payment

1. STG retains its property rights in the delivery item until having received all payments due under the business connection with the orderer. The property rights so retained shall cover the acknowledged balance due to STG if STG adds receivables from the orderer to an open account (current account reservation).
 2. STG is entitled to repossess the sold goods if the orderer commits a breach of contract, including without limitation default in any payment. Repossession of the sold goods by STG includes a rescission of the contract. STG may realize the repossessed goods; the proceeds from the realization of the goods shall be credited towards the debt owing from the orderer, minus reasonable costs of such a realization.
 3. The orderer shall give STG immediate written notice of any attachment or any other intervention by any third party and it shall make that third party aware of STG's collateral security rights on the basis of the respective agreement, especially of the security rights provided under item 1, item 4, item 7, and item 8 hereof. To the extent any such third party is not capable of reimbursing STG for the court fees and out of court expenses for an action pursuant to ZPO section 771, the orderer shall be liable to compensate STG for the loss incurred.
 4. The orderer shall not assign or transfer any delivered item being covered by the expanded reservation of property rights as a collateral. The orderer may resell the delivered item in the ordinary course of the orderer's business. With respect to any event of a resale, the orderer is now, already, assigning all receivables in the amount of the respective invoice total (including sales tax) accruing to it from any such resale against its customers or against third parties, and that shall apply regardless if the delivered item has been sold before or after having been processed. The orderer may even collect such receivables after they have been so assigned. STG's right to collect such receivables itself shall remain unaffected hereof, STG agrees, however, not to collect such receivables while the orderer duly meets its payment obligations to STG and does not default any payment.
 5. The orderer agrees to send STG an inventory reflecting the assigned receivables and the debtors owing these receivables upon request. Additionally, the orderer shall provide all information required for collecting these receivables, surrender all pertaining documents to STG and disclose the assignment to the debtors (third parties) if the orderer defaults on any payment.
 6. The orderer shall treat the delivered item with care. The orderer shall at its own expense sufficiently insure the delivered item against damages caused by fire, water, and theft on the basis of its original value.
- Any processing or transforming of the delivery item by the orderer shall always be deemed to be made on STG's behalf. If any delivery item is processed jointly with other items not owned by STG, then STG shall acquire a joint ownership interest in any newly created item equivalent to the value of the respective delivered item in proportion to the value of those other jointly processed items at the time of such processing. The provisions governing delivered items title to which is retained upon delivery shall also govern items created through the processing process to the extent they are not covered by the above provisions.
7. If any respective delivered item is inseparably attached or confused with other items not owned by STG, then STG shall acquire a joint ownership interest in any such new item equivalent to the value of the delivered item in proportion to the value of the other attached or confused items at the time of such attachment

or confusion. If such an attachment or confusion is performed thus that the orderer's item is to be treated as the principal item, then it shall be deemed agreed upon that the orderer transfers such a joint ownership interest in that item to STG on a proportionate basis. The orderer shall keep the custody of the object of this joint or sole ownership interest on STG's behalf.

8. The orderer shall not itself assign the receivables assigned pursuant to item 4 to any third party unless the assignment is made as part of a true factoring transaction the orderer has given advance notice of to STG and if the factoring proceeds exceed the value of the secured receivable(s). To the extent they are part of a true factoring transaction, STG's receivables from the orderer shall become payable immediately as soon as the factoring proceeds are credited to the orderer's account.

9. Upon the orderer's request, STG agrees to release any respective collateral STG is entitled to to the extent that the value of such collateral exceeds the yet outstanding receivables to be secured by more than 10 %. STG may choose the collateral to be released.

10. If the delivered item is abroad, the orderer agrees to take part in all measures and to contribute any declaration required for providing STG with valuable and bankruptcy-proof securities in accordance with the expanded and extended retention of title pursuant to items 1 through 10

IV. Shipment, Delivery and Installation

1. Any shipment is performed at the orderer's expense and risk. Goods which got lost and/or damaged in transit will only be replaced by STG on the basis of a new order against payment of the prices applicable from time to time.
2. STG shall be notified in writing of any non-conformity with the delivery note or invoice immediately after the goods have been received.
3. The orderer shall bear the cost and risk of unloading and storing the goods.
4. In the event that the dispatch of any ordered item is delayed at the orderer's request, the orderer shall be charged the cost of its storage as of one month following STG's notice of its readiness to dispatch the ordered item such charge of costs monthly amounting to at least .5 % of the invoiced amount if the ordered item is stored at STG's premises. Following the fixing and fruitless expiration of a reasonable period of time, STG may, however, dispose of any respective ordered item otherwise and provide supply to the orderer under a reasonably extended time limit.

V. Time of Delivery

1. The time of delivery shall commence upon dispatch of the acknowledgment of any respective order, in no case, however, prior to the submission of all documents, licenses, and releases to be furnished by the orderer.
2. Such a time limit for delivery shall be deemed to have been observed if, prior to its expiration, the ordered item has either left STG's premises or notice of STG's readiness for dispatch has been given.
3. Any time limit for delivery shall be adequately extended in any case of industrial action, particularly strike and lock out, and as well in any case of an occurrence of important unforeseeable impediments beyond STG's will, provided that such impediments are proven to substantially affect the completion or shipping out of the ordered item. The same shall apply if subsuppliers are affected by such circumstances.
4. Even if such industrial action, in particular a strike or a lock out, or an impediment beyond STG's will, occurs while STG is in default of delivering the ordered item and provided that such impediments are proven to substantially affect the completion or the delivery of the ordered item, STG shall not be held liable for any consequences thereof. BGB section 287 clause 1 and clause 2 shall be contracted out. In important cases, STG will give the orderer immediate notice of any appearance and disappearance of such impediments.
5. Observance of the time limit for delivery requires the due performance of its contractual obligations by the orderer.

VI. Passing of Risk and Acceptance of Delivery

1. At the latest, the risk shall pass from STG to the orderer when the respective ordered items are available for lading, or when notice of their readiness of lading is given pursuant to EX WORKS (INCOTERMS 2010).
2. In the event that delivery is made by installments, the parties are deemed to have agreed that the risk shall also pass to the orderer upon the availability of the ordered items for lading or when notice of their readiness of lading is given by STG.
3. If the dispatch of any ordered item is delayed due to circumstances the orderer is responsible for, the risk shall already pass to the orderer on the day STG is ready to dispatch the respective ordered item, provided, however, that STG shall, upon the orderer's request and at the orderer's cost, obtain the insurance coverage the orderer demands.
4. The orderer shall accept the items delivered even if they show substantial defects, without prejudice, however, to any of its rights provided by either section VIII hereof or by provisions of statutory law.
5. Deliveries may be made by installments.

¹ Zivilprozessordnung (German Rules of Civil Procedure)

² Bürgerliches Gesetzbuch (German Civil Code)

VII. Defective Delivery, Warranties

1. Any and all items proving to be unfit for use or of only substantially reduced use within 1 year following their commissioning due to any circumstance given before the risk passed to the orderer, especially when due to faulty design, defective construction materials or faulty workmanship, shall at STG's reasonable discretion either be repaired or replaced by a substitute item. STG shall be given immediate written notice of any discovery of any such defect. Any replaced item shall become STG's property.

2. The period of limitation for all warranty claims (especially those pursuant to BGB § 438 subsection 1 item 3) is reduced to 1 year. The foregoing shall not apply in any case of intentional misrepresentation, malice, and when BGB sections 478, 479 apply. The period of limitation commences at the time provided by the respective applicable statute.

3. The limitation period is not limited, however, if the delivered item has, according to its ordinary manner of use, been used for a structure and if the delivered item has caused the defectiveness of that structure (especially BGB section 438 subsection 1 item 2 and section 634a subsection 1 item 2).

4. Any delivery shall be deemed approved if STG has not received any notice of any obvious defect within 10 weekdays following arrival of that delivery at its place of destination.

5. Hidden defects shall be reported within 3 days of their discovery in the same manner.

6. STG's liability for third party products shall be contingent on a prior unsuccessful assertion of claims by the orderer against the supplier of any such third party product.

7. In any case of timely notice of a defect, the orderer's right to assert claims arising from defects shall expire after 6 months, no sooner, however, than upon the expiration of the warranty period.

8. There is no liability for damages to any delivered item due to any of the following events: Inappropriate or improper use, faulty installation or commissioning by the orderer or any third party, fair wear and tear, faulty treatment or negligent mistreatment, improper operating materials, improper substitute materials, faulty construction work, unfit subsoil, chemical, electrochemical, electric and any like effects, provided that such circumstances are not caused by any fault of STG's.

9. Upon entering into any agreement, the orderer shall be deemed to have waived any claim for compensation of damages sustained due to any ordinarily negligent act or omission by any employee of STG's constituting a breach of any precontractual duty. This shall not apply to any injury to life, body, and / or health of any person.

10. Upon arrangement with STG, the orderer shall allow STG the time and opportunity needed for completing all repairs and replacements STG will in its reasonable discretion consider necessary; otherwise, STG is exempt from any liability for any consequence resulting from such repairs and replacements.

11. The orderer shall only have the right to cure any defect itself or to have any third party do so, and to claim reimbursement of the expenses necessary for such cure from STG, in the event of either an urgent case of an operational safety hazard or of STG's defaulting on its obligation of curing a defect and then only for the purpose of avoiding unreasonably extensive damages, provided that STG is given immediate notice thereof.

12. Provided that the orderer's complaint proves to be meritorious, the share to be borne by STG of the immediate cost arising from any repair or replacement performed under any warranty shall consist of the expenses for the respective spare part including the expenses of shipping that spare part, and the cost of any disassembly and assembly work which the parties shall come to an agreement on before any disassembly or assembly work is performed. Any other costs and expenses shall be borne by the orderer.

VIII. STG's Liability, Exclusion of Claims for Damages

Unless otherwise provided under these Terms and Conditions, STG shall only and exclusively be liable to the extent set out hereinafter:

1. STG, its employees and its vicarious agents shall be exempt from liability for damages of any kind based on ordinary negligence unless provided otherwise under VIII. of these Terms and Conditions. This exemption from liability shall apply regardless if the damages are defined as based on breach of contract or on breach of secondary contractual duties, and regardless if they are defined as based on the breach of duties existing at the time when the agreement was entered into or as based on a tortious act. This exemption of liability shall also apply to any consequential damages and to any damages caused by delay. It shall be of no concern if the damage materializes in the delivered item or elsewhere.

2. In any case of a faulty breach of a substantial contractual duty, the liability for such breach shall also cover ordinary negligence, provided such ordinary negligence is committed by an executive body of STG's or by any member thereof, or by an officer; such liability, however, being limited to such damages which are typical for the respective contract and which were reasonably foreseeable.

3. In any case of a permitted limitation of liability for ordinary negligence,

the damages which are typical for any respective agreement, and which were reasonably foreseeable shall not exceed 5 % of the value of the quantity of any delivery affected by such ordinary negligence.

4. There is no limitation of any liability under the Produkthaftungsgesetz of the Federal Republic of Germany. The same shall apply whenever qualities are lacking that, by way of an exception, have been expressly warranted, provided such warranty has been given for the purpose of securing the orderer against such damages that have not arisen in the ordered item itself. Any liability resulting from injuries STG is responsible for to life, body and / or health of any person shall be without limitation.

IX. Orderer's Rights of Rescission

1. The orderer may rescind the agreement if full performance by STG becomes impossible before the risk passes. The same applies in any case of STG's incapability to perform its obligations under the agreement. Section VIII items 2 and 3 shall apply if such impossibility / incapacity affects essential contractual duties. The orderer shall also have the right to rescind any respective agreement if performance of a delivery in fulfillment of an order of items of the same kind becomes impossible as to a part of its quantity, provided that the orderer has a meritorious interest in rejecting a partial delivery; otherwise, the orderer shall have the right to reduce its counterperformance correspondingly.

2. The orderer shall have a right of rescission in any case of default of STG's performance provided that the orderer fixes an additional reasonable period of time for the defaulting STG to perform its duties connected with the explicit warning that it will refuse to accept STG's performance after the expiration of that additional period of time, and further provided that STG fails to perform its duties within that additional period of time.

3. If STG's performance becomes impossible while the orderer is in default of acceptance of delivery or if such impossibility is due to the orderer's fault, then the orderer shall remain liable to counterperform.

4. Moreover, the orderer shall have a right to rescind any respective agreement if, due to STG's fault, any repair or replacement of any defect in terms of these Terms and Conditions of Delivery STG is responsible for fails to be completed within such additional period of time reasonably fixed to STG. The orderer shall also be entitled to rescission if such repair or replacement by STG has become impossible or if STG has become permanently incapable of providing such repair or replacement.

X. STG's Right of Rescission

1. Any respective agreement shall be reasonably adjusted in any case of an unforeseeable event, provided that event materially changes the economic importance or the subject matter of the performance due under that agreement, or provided that event considerably affects STG's business, and in any case in which performance of the agreement turns out to be impossible subsequently to the formation of the agreement.

2. STG may rescind the agreement in whole or in part if adjusting that agreement is economically unreasonable. The orderer is not entitled to any damages caused by such a rescission.

3. STG shall give the orderer notice of its intent to rescind any respective agreement immediately after having become aware of the consequences of any such event, and that shall even apply if an extension of any respective time for delivery was initially agreed upon between STG and the orderer.

XI. Place of Performance, Place of Jurisdiction, Applicable Law, Other Terms and Conditions, Final Provisions

1. The requirement of a writing shall be met if any notice hereunder is made by fax and by email.

2. The place of performance of any respective delivery shall be at its respective place of dispatch, the place of performance of any respective payment shall be at 84032 Altdorf.

3. The place of jurisdiction, including summary draft enforcement proceedings, summary check enforcement proceedings and summary proceedings restricted to documentary evidence, shall be at the respective court of venue and subject matter jurisdiction over Altdorf without prejudice, however, to STG's right to resort to the court of general jurisdiction over the place of the orderer's domicile.

4. All legal relations between STG and the orderer are exclusively governed by the laws of Germany. This shall apply to the formation and to the performance of any respective agreement as well.

5. The ordered items are designed, manufactured and adjusted in accordance with the legal provisions applicable in the Federal Republic of Germany. If the orderer desires the ordered items to be adjusted according to provisions differing from the German legal provisions, it shall give STG notice thereof upon placing the order or immediately thereafter. At the same time, it shall transmit such provisions differing from the German legal provisions to STG either in German or in English.

³Product Liability Code