

General terms and conditions of SHE Solution Bergmann GmbH & Co. KG

I. General Information

1. The following Terms and Conditions of Purchase shall apply exclusively to all orders and delivery call-offs placed by us. In the case of permanent business relationships, these terms and conditions shall also apply to future business transactions in which no express reference is made to them, provided that they have been received by the supplier in the case of a previous order confirmed by us. Deviating provisions of the supplier which we do not expressly acknowledge in writing are not binding for us, even if we do not expressly contradict them. Neither does the unconditional acceptance of the delivery or acceptance of the service or payment of the remuneration imply any acknowledgement of deviating or supplementary terms and conditions of the supplier.
2. Should individual provisions of these Terms and Conditions of Purchase be invalid or excluded by special agreement, this shall not affect the validity of the remaining provisions.
3. Our General Terms and Conditions of Purchase shall only apply to companies, legal entities under public law or special funds under public law within the meaning of § 310 (1) sentence 1 BGB (German Civil Code).
4. Only those purchase orders are considered to be call-off orders whose total order quantity is available at the time of placing the order or at the latest within 12 weeks after the date of the order, and whose total order quantity is accepted within 9 months after placing the order. Agreements to the contrary require our written consent.
5. If outturn samples are sent to the customer and a positive result is available, these are decisive for the execution and thus an integral part of the contract.

II. Quotation

Our offers are subject to change without notice.

III. Price basis

6. Unless otherwise agreed, our prices in EURO are ex works including packaging.
7. Orders for which we have not expressly agreed fixed prices shall be invoiced at the prices valid on the day of delivery. If there is a change in the standard wages, standard wages, material or energy costs up to the delivery date, we reserve the right to make a corresponding price change. We will prove such changes to the customer on request. This shall also apply if additional costs included in the prices, such as freight charges, customs clearance, etc., increase after the order confirmation has been sent, but before the delivery has been carried out, or if new costs should arise.
8. The prices are not binding for repeat orders or follow-up orders.
9. If a purchase price payment is agreed in a currency other than EURO, we shall be entitled to reduce or increase our purchase price claim in the other currency by issuing an invoice so that the amount shown in the invoice corresponds to the EURO equivalent value as it is calculated on the basis of the foreign currency debt at the time of conclusion of the contract.

IV. Order and order confirmation

10. Unless otherwise agreed, delivery periods and delivery dates are to be understood as approximate terms of delivery. Delivery periods shall commence on the date of order confirmation, unless the customer has not yet fulfilled all the agreed or otherwise required conditions for delivery by this date and/or not all details of the execution of the delivery have been agreed. The delivery period shall be deemed to have been met if the goods have left the factory by the end of the agreed delivery period. The delivery period shall also be deemed to have been met if we have notified the customer that the goods are ready for dispatch within the delivery period, provided that the dispatch has become impossible after this notification without our fault.
11. In the case of early delivery, this and not the originally agreed time of delivery shall be decisive. We reserve the right to make correct and timely deliveries ourselves.
12. In the event of force majeure and other unforeseeable, extraordinary and unintentional circumstances, e. g. in the event of material procurement difficulties, breakdowns, strikes, lockouts, lack of means of transport, intervention by authorities, power supply difficulties, etc. - even if they occur at a supplier's premises - if we are prevented from fulfilling our obligations on time and without fault, this shall be extended. If the aforementioned circumstances render the deliveries or services impossible or unreasonable, we shall be released from the delivery obligation. If the delivery time is extended or if we are released from the delivery obligation, the customer cannot derive any claims for damages against us from this. We can only invoke the circumstances mentioned above if we inform the customer immediately.
13. In the event of subsequent changes to the contract that may affect the delivery period, this shall be extended accordingly, unless special agreements are made to this effect.
14. If the obstacles mentioned in paragraph 3 occur at the customer's premises, the same legal consequences shall also apply to his obligation to accept delivery. However, the customer can only invoke these obstacles if he has informed us immediately.

V. Suspension and cancellation of the order

15. Suspension or cancellation of the order is only permissible on the basis of a special agreement with us.
16. In case of partial or complete suspension or cancellation of the order, we are entitled to recalculate the price valid for the quantity already delivered.
17. Parts already manufactured by us and purchased raw materials will be charged to the customer in case of suspension or cancellation of the order. It is left to an agreement whether prefabricated parts are delivered as semi-finished or finished parts.
18. In the event of a suspension or cancellation of the order, the customer shall be charged in full for the costs of outturn samples and tools. If the suspended or cancelled order is resumed, the customer will be credited with the paid costs.

VI. Tools and models

Tools and models are always invoiced separately from the value of the goods. They are to be paid for with the requested transmission of the default sample or with the first delivery of goods, unless other agreements have been made in writing with the customer. By reimbursement of costs for tools and models, the customer does not acquire a claim to the return of the tools and models, they remain in our ownership and possession. We undertake to keep the tools and models available for further orders three years after the last delivery. If the customer informs us in writing before the expiry of this period that orders will be placed within a further year, the period shall be extended accordingly. Furthermore, we are free to use the tools and models.

VII. Dispatch and transfer of risk

If the goods are shipped at the customer's request, the risk of accidental loss and accidental deterioration of the goods shall pass to the customer upon delivery to the shipping agent, at the latest, however, upon leaving the factory, irrespective of whether the goods are shipped from the place of performance or who bears the shipping costs. If the goods are ready for despatch and if despatch or acceptance is delayed for reasons beyond our control, the risk shall pass to the customer upon notification of readiness for despatch. The type of despatch is at our discretion, whereby we take into account the special wishes of the customer as far as possible.

VIII. Acceptance of the goods

19. Only if expressly agreed upon, the goods shall be accepted by the customer at the supplier's works upon readiness for dispatch.
20. The customer shall bear the personal acceptance costs; the material acceptance costs (including certificate) shall be charged if they are not included in the price.
21. After formal acceptance of the goods, notification of defects which can be ascertained at the agreed type of acceptance is excluded.
22. If an agreed acceptance in the sense of sentence 1 of this section does not take place, not in time or not completely, although the goods are free of defects, we are entitled to dispatch or store the goods without acceptance at the customer's expense and risk. The goods shall then be deemed to have been delivered in accordance with the contract in all respects upon dispatch or storage.

IX. Partial deliveries, call-off contracts

23. We are entitled to make partial deliveries. Each partial delivery shall be deemed to be an independent delivery.
24. In the case of call-off orders, the customer is obliged to notify us of call-offs in good time. If we do not call up or divide up in time, we are entitled to divide and deliver ourselves or to withdraw from the not yet fulfilled part of the contract and to demand compensation for damages instead of performance.

X. Weights, quantities, dimensions

25. In the case of custom-made products according to samples or drawings, excess or short deliveries of the ordered quantity within the scope of +/- 10 % are permissible. The weights and quantities determined by us shall be decisive for the calculation.
26. Dimensions and weights contained in our illustrations, drawings, catalogues, documents, etc. are to be understood as approximate only. We reserve the right to make changes or improvements.

XI. Terms of payment

27. Unless otherwise agreed, our invoices are payable within 14 days after the invoice date with 2% discount or within 30 days after the invoice date net. Discounts must be granted in order to settle all invoices that are due earlier and undisputed. For possible No discount is granted for payments by bill of exchange. Payments shall only be deemed to have been made in due time if we are able to dispose of the equivalent value with value date on the due date on our bank accounts without reservation.
28. If the goods are received by the customer later than the invoice, the date of receipt of the goods shall be decisive for calculating the period of time.
29. In the event of default in payment by the customer, we shall be entitled to charge default interest in the amount of 8 percentage points above the base interest rate in accordance with § 3.1 of the German Civil Code. 247 BGB. We reserve the right to prove and assert a higher damage caused by delay.
30. We reserve the right to reject cheques or bills of exchange. Cheques or bills of exchange shall only be accepted on account of performance without guarantee for protest. In addition, bills of exchange shall only be accepted by agreement and subject to their discountability. All costs associated with the acceptance of cheques or bills of exchange, in particular discount charges and collection charges, shall be charged from the due date of the invoice amount.
31. The customer can only offset or assert a right of retention if his claim is legally established or undisputed. If we become aware of circumstances which give rise to serious doubts about the creditworthiness of the customer, we shall be entitled to demand payment of all claims irrespective of conflicting terms and conditions of payment or payment agreements. In addition, we shall be entitled to demand advance payments or the provision of a full security for outstanding deliveries. Serious doubts as to the creditworthiness of the customer exist in particular if he is in default with at least 1/6 of the invoiced amounts for 6 weeks or if write-offs are cancelled on the basis of a direct debit authorization or if cheques or bills of exchange are not honoured or if we become aware of fruitless enforcement measures - including those of third parties. If the customer does not settle all due claims within a reasonable period of grace set by us, we shall be entitled to withdraw from the contract and demand damages instead of performance and to prohibit the buyer from reselling and processing the delivered goods and to demand their return or the transfer of the indirect possession of the delivered goods at the customer's expense. The same shall apply if a reasonable period of grace is not necessary due to legal regulations.
32. The customer authorizes us to enter his premises at normal business hours and to take back the delivered goods in order to enforce a claim for return according to the aforementioned paragraph.
33. We shall be entitled at any time to the usual type and scope of collateral for our claims, even if they are conditional or limited in time.

XII. Retention of title

a.) Domestic business

34. The delivered goods remain our property until complete payment of all claims arising from the business relationship with the customer. The inclusion of individual claims in a current account as well as the balancing and recognition of individual claims do not affect the retention of title. The receipt of the equivalent value by us shall be deemed to be payment.
35. The customer is entitled to resell the reserved goods in the normal course of business. However, he is not permitted to pledge or assign as security.
36. The customer is obliged to secure the rights of the conditional seller in the case of the sale of conditional goods on credit. The customer hereby assigns to us the claims arising from the resale of our reserved goods; we accept this assignment. Notwithstanding the assignment, the customer is entitled to collect the claims as long as he fulfils his obligations to us in full and punctually. At our request, the customer shall at any time provide us with the information necessary for collection of the assigned claims and notify the third party debtors of the assignment.
37. Any processing and processing of our reserved goods shall be carried out by the customer for us as the manufacturer without any obligations arising from this. We acquire ownership of the intermediate and final products produced, the customer is merely the custodian. This shall also apply if the new products are more valuable than the goods subject to retention of title, but the processed goods shall serve as our security only to the value of the goods delivered under retention of title.
38. In the event of processing, combination, mixing or blending of the reserved goods with other goods not belonging to us, the co-ownership of the new item resulting therefrom shall be transferred to us in the ratio of the value of the reserved goods to the other goods at the time of processing, combination, mixing or blending. If the customer acquires sole ownership of the new item, the contracting parties agree that the

customer shall grant us co-ownership of the new item in the proportion of the value of the processed, combined, mixed or blended reserved goods and shall keep it in safe custody for us free of charge.

39. If the reserved goods are resold together with other goods, regardless of whether without or after processing, combination, mixing or blending, the advance assignment agreed above shall only apply to the value of the reserved goods, which will be resold together with the other goods.

40. In the event of seizures or other interventions by third parties - both with regard to the reserved goods and claims assigned as security - the customer must notify us immediately in writing and provide us with the documents necessary for an intervention (e. g. B. Garnishment protocol). The intervention costs incurred by us shall in any case be borne by the customer, insofar as they are not borne by third parties.

41. We undertake to release the securities to which we are entitled at the customer's request insofar as the realisable value of our securities exceeds our claims to be secured against the customer by 10 %; the choice of the securities to be released is incumbent upon us.

42. The customer undertakes to maintain the reserved goods and the items in our co-ownership in a proper condition, to insure them against fire and theft and to indemnify us against demands to assign the claims against the insurer.

b.) Foreign business

43. We reserve the right to ownership of the delivered goods until the purchase price has been paid in full in accordance with the respective legal regulations of the country of destination. This retention of title is expressly agreed between us and the customer. Insofar as the legal provisions of the country of destination do not necessarily provide otherwise, the provisions of these General Terms and Conditions of Delivery applicable to domestic transactions shall also apply to foreign transactions.

44. If the law of the country of destination prohibits a reservation of title, we shall be entitled to the security rights permitted there. The customer undertakes to inform us of the measures we must take to protect these rights. The customer will support us in carrying out these measures. If third parties assert rights to our goods, we must be informed immediately in writing. We are entitled to carry out any necessary registrations required by foreign national law on the basis of our retention of title.

XIII. Customer's rights in the event of defects

45. The guarantee for the quality or durability of our goods must be given in writing in the order confirmation. The reference to technical standards is merely a description of performance. Information in technical data sheets, performance descriptions and brochures do not represent a contractual description of the quality of the delivery items. Unless otherwise agreed in writing, samples of the products shall be deemed to be an indication of the properties of the goods and shall not constitute a guarantee.

46. Immediately after delivery, the customer shall check whether the delivered goods are suitable for the contractually agreed condition and intended use. Deliveries must always be checked for completeness and damage in the presence of the deliverer (e. g. freight forwarder, post office). Possibly. Shortages/damage must be certified immediately by the deliverer in the accompanying documents.

47. Complaints about recognisable shortfalls cannot be asserted outside of the time period referred to in paragraph 2. In all other cases, defects which are recognisable by an immediate inspection of the delivered goods shall be asserted in writing to us without delay, but at the latest within two weeks after receipt of the delivery (§§ 377,378 HGB). Hidden defects are to be asserted in writing to us immediately, at the latest within two weeks after their discovery. The receipt of the notification of defects by us shall be decisive for meeting the deadline.

48. In the event of justified complaints, we shall be obliged to remedy the defect or to make a replacement delivery (supplementary performance) free of charge at our discretion. If we do not fulfil our obligation to remedy the defect within a reasonable period of time, the buyer is entitled to withdraw from the contract or demand a reduction of the purchase price. Replaced parts shall be returned to us at our request and shall become our property. Further claims - irrespective of the legal basis - shall be subject to the provisions of the provisions of Clause 4. XIV. 1. to 4. made regulations excluded.

49. Unauthorized reworking and improper handling or use will result in the loss of all warranty claims.

50. Claims of the customer due to defects in goods delivered by us or due to performance contrary to our duty - including claims for damages or claims for reimbursement of futile expenses - shall become statute-barred within one year from the beginning of the statutory limitation period, insofar as nothing else arises from the following paragraph or from § 479 para. 2 BGB (German Civil Code).

51. The terms specified in No. 6. shall not apply to the limitation of claims under the German Product Liability Act (Produkthaftungsgesetz) or claims based on injury to life, limb or health and to the limitation of claims based on intentional breach of duty on our part. The terms specified in No. 6. provisions made shall also not apply if we have fraudulently concealed defects.

XIV. General limitations of liability

52. Our company's liability for damages or futile expenses - irrespective of the legal reason - shall only arise if the damage or futile expenses

52.1 caused by us or one of our vicarious agents through culpable violation of an essential contractual obligation, or

52.2 is due to a grossly negligent or intentional breach of duty by us or one of our vicarious agents. Deviating from item no. XIV.

52.1 we are liable for damages of the futile expenditures, which were caused by a not separately remunerated consultation and/or information, only in case of deliberate or grossly negligent breach of duty, insofar as this breach of duty does not result in a material defect in accordance with § 2.1 of the German Civil Code. 434 BGB of the goods delivered by us.

53. We adhere according to numeral XIV. 52.1 for the violation of an essential contractual obligation without gross negligence or intent, our liability for damages shall be limited to the foreseeable, typically occurring damage; however, in accordance with the provisions of our product liability insurance, our liability for damages shall be limited to an amount of... € million per case of damage and... € million in total per year. In this case, we shall in particular not be liable for loss of profit on the part of the customer and for unforeseeable indirect consequential damages. The above limitations of liability pursuant to § 2. Sentences 1 and 2 shall apply in the same manner to damages caused by gross negligence or intent on the part of our employees or agents, insofar as they do not belong to our managing directors or executives.

54. The above mentioned in No. XIV. 52. to 53. mentioned limitations of liability do not apply if our liability is mandatory on the basis of the provision of the Product Liability Act or in the event that claims are asserted against us for injury to life, limb or health. If the goods delivered by us lack a guaranteed characteristic, we shall only be liable for such damages whose lining was the subject of the guarantee.

55. Any further liability for damages is excluded - irrespective of the legal nature of the asserted claim.

XV. Third-party industrial property rights

56. If the subject matter of the order is products whose design and composition features are prescribed by the customer, he shall be solely responsible for ensuring that the construction or assembly of the products is carried out in accordance with the customer's instructions composition does not infringe the property rights of third parties. The customer shall indemnify us on first demand without restriction in the event of a claim.

XVI. Place of performance, place of jurisdiction, applicable law

57. Place of performance is Enger/ Westfalia / Germany.

58. The place of jurisdiction is Herford / Westfalia / Germany

59. The legal relationship between us and the supplier shall be governed exclusively by the law of the Federal Republic of Germany. The INCOTERMS shall apply in the currently valid version unless they contradict these provisions or written agreements. In the case of cross-border transactions, the Vienna UN Convention on Contracts for the International Sale of Goods shall apply, even if the country of destination has not acceded to the Convention, or only acceded to it to a limited extent.

60. We store our customers' data within the scope of our mutual business relationship in accordance with. Federal Data Protection Act.

SHE Solution Bergmann GmbH & Co. KG

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