

General Terms and Conditions of Sale and Supply for Stela Steuerungstechnik GmbH & Co. KG



1. Validity of the General Terms and Conditions of Sale and Supply

The supplier's offer, the order acceptance and all deliveries occur exclusively on the basis of the following "General Terms and Conditions of Sale and Supply". The purchasing conditions of the purchaser are expressly contradicted herewith; they do not bind the supplier even if the supplier does not contradict them again at conclusion of contract. Different conditions only apply if the supplier expressly acknowledges the validity of the purchaser's conditions in writing.

2. Offer and Conclusion of Contract

- a) The offers of the supplier are made without obligation and are subject to the written confirmation of the supplier unless expressly stipulated otherwise in writing. The acceptance of orders issued by travelling sales staff or representatives is also subject to the written confirmation of the supplier. The supplier's order confirmation is exclusively decisive for the scope of supply and conclusion of contract. Documents associated with an offer, such as figures, drawings, weight specifications and detailed descriptions are only approximately decisive and provide a rough description and definition of the object of supply. The same applies for performance and consumption specifications. These specifications do not represent a guarantee for the character or service life of the object of supply. The supplier reserves the right to make changes to the dimensions and weights of the object of supply up to the time of delivery.
- b) If a building permit or other approval by a public authority is required, then the purchase must obtain this itself and at its own cost. At the request of the supplier, the purchaser must provide written evidence that such necessary approvals have been obtained.
- c) The supplier retains all property rights and copyrights to all figures, drawings, calculations and other documents such as brochures and catalogues. Any use outside the underlying contract, as well as transfer to a third party, requires the express written permission of the supplier.

3. Prices and Payments

- a) Prices are valid ex works without packaging and are not valid for re-orders. Packaging is charged separately. Framework contracts are not affected by these provisions; suitable conditions are agreed separately.
- b) Prices are based on the costs of acquisition at the time of the supplier's written confirmation. If the acquisition costs increase up to the time of delivery due to an increase in duties or in the price for raw materials, auxiliary materials, energy, freight or wages, the supplier has the right to adjust the agreed price correspondingly. The individual cost elements and their increase must be weighted proportionately when the new price is calculated. If individual cost elements increase while others fall, this must also be taken into consideration when the new price is calculated. A right of the purchaser to withdraw from the contract cannot be derived from such a price increase.
- c) If changes to the price base, as described above under b), occur on a delivery day which is 4 months after conclusion of contract, the supplier reserves the right to a corresponding price adjustment according to information of the purchaser. Here too, the individual cost elements and their increase must be proportionately weighted in calculating the new price; if individual cost elements increase while others fall, this must also be taken into consideration when the new price is calculated. A right of the purchaser to withdraw from the contract cannot be derived from such a price increase.
- d) The agreed supply price plus legally stipulated value added tax is payable after receipt of invoice, notwithstanding any differing agreement. Payments to travelling sales staff or representatives of the supplier without written authority to collect is not permitted. Packaging, transport and installation costs are payable immediately after receipt of invoice. If there are multiple outstanding invoices, the oldest invoices are settled first; if costs and interest have already accrued, payments are first allocated to costs, then interest and lastly to the principal performance, again beginning with the oldest invoices.
- e) Offsetting with counterclaims is only permitted with indisputable claims that have been determined or acknowledged as legally binding. The purchaser is only permitted to exercise a right to withholding if counterclaims have been determined or acknowledged as legally binding and if counterclaims are based on the same contractual relationship.

4. Arrears

- a) If payment deadlines are not met or there are subsequent deferrals, legal interest is charged.
- b) If the purchaser does not honour a check or bill of exchange, or if the supplier becomes aware of significant deteriorations of the purchaser's circumstances which put the payment claims at risk, the entire outstanding debt is payable, even if bills of exchange with later maturities are pending. If the entire outstanding debt is not paid immediately, the purchaser's right to use the object of supply expires. The supplier has the right either to reclaim the object of supply without relinquishing its claims until they are satisfied or to withdraw from the contract. If such circumstances become known after the contract has been concluded but before delivery, the supplier can refuse to complete the performance and demand payment reciprocally and simultaneously even if other payment conditions and terms have already been agreed; alternately, the supplier can demand a security for its performance.
- c) If the purchaser otherwise does not fulfil its payment obligations following reminders with a reasonably set final deadline for payment, the supplier has the right to reclaim the object of supply or to withdraw from the contract. In the case of an instalment transaction, the supplier can withdraw from the contract due to late payment by the purchaser under the conditions stipulated by law.
- d) In the case of withdrawal from contract, the supplier also has the right to demand compensation for loss instead of performance or compensation for its futile expenditures, if the supplier had unsuccessfully set the purchaser a reasonable deadline for performance prior to withdrawal. If the supplier demands compensation for loss instead of performance, the supplier has the right to charge 25% of the agreed purchase price without deductions as a lump-sum compensation. The supplier retains the right to establish and claim compensation for higher losses; equally, the purchaser is free to establish that losses did not occur at all or were significantly less than the lump sum demanded. This applies equally if the purchaser is not only in arrears with payment, but also with acceptance of the goods or other obligation to cooperate.
- e) In the event of a withdrawal from contract after delivery of the goods, the supplier has the right to the return of the goods as well as to remunerations for the right to use the goods; this right applies independent of loss compensation claims and compensation for futile expenditures.
- f) All of the above provisions apply equally in cases where the end customer is supplied directly by the supplier at the behest of the purchaser.

5. Delivery time

- a) The agreed delivery period begins on the day the order confirmation is sent and is considered kept if the goods have left the plant by the end of the delivery period.
- b) If, due to circumstances beyond our control, we do not receive or do not receive on time supplies or performances from our suppliers or sub-suppliers *despite proper congruent covering* (i.e., in quantity and quality in accordance with the delivery agreed with the customer), or in the event of a *force majeure*, i.e., performance hindrance with a duration of more than 14 calendar days for reasons beyond our control, we will *inform our customer in writing in good time*. In this case, we have the right to postpone the delivery or performance by the duration of the hindrance or to partially or wholly withdraw from the contract due to the not yet fulfilled part, provided we have complied with our aforementioned notification obligations and *have not assumed the procurement risk or manufacturing risk and the performance hindrance is not of a temporary nature*. Force majeure includes the following: strike, lock-out, intervention by authorities, lack of energy or raw materials, transport bottlenecks beyond our control, operational hindrances beyond our control such as fire, water and machine damages and all other hindrances, which occur through no fault of our own from an objective point of view.
If a delivery or performance deadline or a delivery or performance period is bindingly agreed and if, due to circumstances in accordance with the aforementioned § 6 Par. (1), the agreed delivery or performance deadline or the agreed delivery or performance period is exceeded by more than 4 weeks, or if the customer cannot objectively adhere to the contract with the non-binding performance period, then the customer has the right to withdraw from the contract due to the not yet fulfilled

part. The customer does not have additional rights, in particular the right to loss compensation, in this case.

- c) The supplier is not at fault for the circumstances described above even if they occur during an already existing delay.
- d) Compliance with the delivery period assumes the purchaser fulfils its contractual obligations. Storage costs are charged at the storage rates common at the domicile of the supplier. The delivery period does not begin if, at this time, documents, approvals and releases to be provided or procured by the purchaser are not on hand or if any agreed down payment has not been received. If the delivery period is postponed at the behest of the purchaser, then the purchaser is obligated to compensate the supplier for any storage costs incurred.

6. Shipping

Notwithstanding any agreements to the contrary, all shipments are made at the discretion of the supplier and at the cost of the purchaser. The supplier reserves the right to select the type of shipping; no claims against the supplier can be derived from the selection made.

7. Shipping Abroad

Shipments abroad are subject to additional general sales conditions for export and other additional specific agreements where applicable. In addition, Incoterms 2010 apply; the supplier is free to revert to these.

8. Transfer of Risk and Acceptance

Risk is transferred to the purchaser with the transfer of the goods to the carrier, whether the supplier or the purchaser commissioned the carrier and indeed even if partial deliveries are made or the supplier has accepted other performances, notwithstanding any agreements to the contrary. If shipping, which can occur by rail or trucking company as selected by the supplier, is delayed as a result to circumstances within the control of the purchaser, then risk is transferred to the purchaser on the day the goods are ready for shipment; however, if so requested by the purchaser, the supplier is obligated to arrange insurance at the purchaser's expense. The purchaser bears the costs incurred for storage. Delivered objects are to be accepted by the purchaser even if they have immaterial defects, notwithstanding rights arising from Section 9. Partial deliveries are permissible.

9. Warranty

- a) If there are defects in the delivery, the supplier can choose to remedy them or to replace the defective objects with deliveries of new non-defective goods; the replaced parts become the property of the supplier. If the supplier remedies the defects, the supplier is obligated to accept the expenditures required for remedy, in particular the costs for transport, journey, labour and material, provided these costs are not increased because the objects of supply were relocated to a different place than specified in the contract.
- b) If supplementary performance fails, then the purchaser can choose to either withdraw from the contract or to demand a price reduction, and, if the legal requirements are fulfilled, the purchaser can demand compensation for losses or for futile expenditures.
A period for supplementary fulfilment does not need to be fixed, if the supplier earnestly and finally rejects the performance, if the supplier did not complete performance by the contractually determined deadline and within a determined period and the buyer linked the continuance of interest in performance to the timeliness of the performance. The purchaser is also entitled to the aforementioned rights if the supplier rejects supplementary fulfilment or if supplementary fulfilment is unacceptable to the supplier.
- c) No guarantee is provided for losses which occur due improper setup, improper care, natural wear or substitute materials, provided they cannot be traced back to a fault of the supplier. The supplier also accepts no liability for improper modifications or maintenance work performed by the purchaser or a third party without the prior consent of the supplier.

10. Limitation of Actions

Rights to warranty claims lapse one year after delivery of the goods. The legal period applies, however, if the law for claims for defects on structures and items for structures, the law for recourse action of the purchaser as per § 478, 479 of the German Civil Code or the law for construction defects specifies longer periods. The legal limitation of actions also applies in cases of loss of life, injury or damage to health due to deliberate or grossly negligent breach of duty by the supplier and fraudulent concealment of the defect.

11. Liability

We bear unrestricted liability for losses arising from injury, loss of life and damage to health, which result from a negligent or deliberate breach of duty on our part or also from a deliberate or negligent breach of duty by a legal representative or employee of ours.

Furthermore, we bear unrestricted liability for other losses which result from a grossly negligent breach of duty on our part or from a deliberate or grossly negligent breach of duty of a legal representative or employee of ours.

The we also bear liability where this is stipulated by law, such as the product liability law.

In the event of other negligently caused property damage and financial losses, the we also bear liability for our legal representatives and employees only in the event of a material contractual obligation; material contractual obligations are those whose fulfilment shape the contract and on which you can rely.

In the case of liability for material contractual obligations, the amount of the loss is limited to the contract-typical loss foreseeable at conclusion of contract.

In other cases, liability – regardless of the legal reason concerned – is excluded; the provisions above also apply for claims arising from fault at conclusion of contract.

12. Liability for Production Stoppage and Lost Profit

The supplier expressly accepts no liability for the purchaser's production stoppages and profit losses.

13. Retention of Title

- a) The supplier retains title to the goods until all payments arising from the contract have been received. The purchaser is obligated to handle the goods with care, in particular to insure them at replacement costs against fire, water and theft at its own expense. The purchaser must carry out any necessary maintenance and inspection work at its own expense, in good time and with care.
- b) If the goods are levied, confiscated or otherwise seized by a third party, the purchaser must inform the supplier in writing without delay, so that the supplier can exercise its right to retain title. If the purchaser violates this provision, it is liable for the loss incurred by the supplier.
- c) The purchaser has the right to dispose of the goods in the proper course of business; however, at this time the purchaser assigns to the supplier all claims – up to the gross sale price of supplier's claim – to which the purchaser is entitled from selling the goods on. This is independent of whether the goods were sold on without or after further processing. Even after assignment, the customer remains authorized to collect the claims; this does not affect the supplier's authority to disclose the assignment of claim and to collect the claims itself. This is omitted as long as the purchaser fulfils its payment obligations, does not fall into payment arrears and does not submit a petition to open composition or bankruptcy proceedings. In this case the manufacturer is obligated to provide the supplier with all required information about its buyers and to hand over the necessary documents and to enable the supplier to disclose the assignment.
- d) The processing or altering the goods by the purchaser is always carried out for the supplier. If the goods are processed with other objects which do not belong to the supplier, this results in co-ownership of the new thing at a ratio of the value of the supplier's claim to the value of the other processed objects at the time of processing. The retention of title continues to apply in full for the item created by the processing. The purchaser is authorized to sell on the goods under retention of title within the course of its business operations. At this time, the buyer assigns to the seller its claims from selling on these goods under retention of title and indeed independent of whether the goods under retention of title are sold on after processing or without further processing.

- e) If the delivered goods are inseparably intermingled with objects not belonging to the supplier, then the supplier obtains ownership of the new item, again in relationship to the value of the purchased item to the other intermingled objects at the time of intermingling. If the intermingling is such that the purchaser's item can be viewed as the main item, then the purchaser assigns to the supplier a proportional co-ownership; the purchaser safeguards the sole ownership or co-ownership for the supplier.
- f) If the delivered goods, or objects or items produced from them, are sold on by the purchaser or installed on the property of a third party, either directly or after subsequent changes, in such a manner that they become essential components of the property of the third party, then the purchaser's claims against the recipient, which stand in place of these items, are assigned to the supplier to safeguard the supplier's claims without the necessity of a special declaration of assignment.
- g) Upon request by the purchaser, the supplier shall release the securities due to it insofar as the realisable value of the securities exceeds the secured claims by more than 10%; the selection of the securities to be released rests with the supplier.

14. Miscellaneous

- a) All additional agreements existing outside the order confirmation must be agreed between the contractor and the client in writing; this also applies to amendments and/or auxiliary agreements before or after conclusion of contract or order confirmation.
This also applies to cancelling the requirement of written form.
If individual provisions of this order become ineffective, the other provisions remain in effect. The ineffective provision shall be replaced by a provision which comes closest to the business intentions of the original provision.
- c) By agreement, the place of fulfilment and legal venue are at the domicile of the supplier; if the purchaser is a merchant in terms of the law, then the supplier is also free to bring action against the purchaser at the purchaser's domicile. All agreements between the supplier and the purchaser must be made in writing; all amendments and/or auxiliary agreements before or after contract conclusion must also be made in writing. Any cancellation of this stipulation of written form must also be made in writing.
- d) The legal relationships governed by this contract are subject to German substantive law with the exception of the United Nations Convention on Contracts for the International Sale of Goods (CISG).