

Elektrowerk Weisweiler GmbH

General Terms and Conditions (GTC)

As of: June 9, 2022, version 1.0.1

1. General

- 1.1 These GTC shall apply to all our business relationships with our customers. The GTC shall only apply if the customer is an entrepreneur (in accordance with section 14 German Civil Code (BGB)), a legal entity under public law or a special fund under public law.
- 1.2 The GTC in their respective version shall also apply as a framework agreement for future contracts with the same customer without us having to refer to them again in each individual case. In case of changes to these GTC, we shall inform the customer immediately of such changes.
- 1.3 Our General Terms and Conditions shall apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the customer shall only become part of the contract if and to the extent that we have expressly consented to their application. This requirement of consent shall apply in any case, for example even if we render our services without reservation in knowledge of the customer's GTC.
- 1.4 Legally relevant declarations and notifications to be made to us by the customer after conclusion of the contract (e.g. setting of deadlines, notifications of defects, declaration of withdrawal or reduction, notices of termination) shall be made in writing to be effective.

2 Conclusion of the contract, Content of the contract

- 2.1 Our offers are subject to changes and non-binding.
- 2.2 An order placed by a customer shall be deemed to be a binding offer of contract. Unless otherwise stated in the order, we shall be entitled to accept this contractual offer within 14 days of its receipt by us.
- 2.3 Acceptance may be declared either in writing (e.g. by order confirmation) or by conclusive action (in particular unconditional execution of the order).
- 2.4 The content of the respective contract shall be governed exclusively by the agreements made and these GTC.

3. Scope of services, Duty to cooperate

- 3.1 We provide a wide range of services, including, but not limited to the production of standard ferrochrome products and production of ferrochrome products according to customer requirements. The above services or the goods to be supplied by us shall hereinafter be referred to as "Services".

The determination of the type and scope of services shall always require an agreement in text form (letter, fax, e-mail, etc.), in particular by means of an order acknowledgement. We shall not owe any services not explicitly agreed to in text form.

If, during the provision of a service, it should become apparent that rendering the service is actually or legally impossible, we shall immediately notify the customer about such circumstance. If the customer thereupon does not change the order to the necessary extent or create the conditions enabling us to render our services, we shall be entitled to withdraw from the respective contract. The customer shall reimburse the costs incurred by us up to this point in time.

We shall determine the type of packaging. Unless otherwise agreed, the goods shall be delivered unpacked and not protected against rust. Otherwise, the risk shall pass to the customer upon dispatch of the goods, even if the dispatch is included in our services.

- 3.2 The customer shall provide us in good time with all information required for the provision of the respective service.

4. Remuneration, Invoicing

- 4.1 All prices shall in EUR exclusive of VAT.
- 4.2 Unless a fixed or another type of remuneration has been agreed, we shall receive a remuneration based on time spent, which shall be determined by time hours on the basis of our respective current prices. If, upon request by customer, services are to be provided on weekends or public holidays, we shall be entitled to charge an appropriate surcharge for such time hours.
- 4.3 If the customer fails to comply with its obligations to cooperate as set forth in section 3.2 or if errors or malfunctions occur for which the customer is responsible or if the customer subsequently requests changes or additions to the service, we shall be entitled to charge for the additional time spent as a result in accordance with the above provision and for any other costs incurred as a result on a time and material basis.
- 4.4 Our invoices shall be due without deduction and payable within 14 days after receipt of invoice. Customer shall be in default upon expiry of the aforementioned payment deadline. During the period of default, interest shall be charged on the outstanding invoice amount at the applicable statutory default interest rate. We shall reserve the right to assert further damages for default.
- 4.5 Compliance with the respectively agreed payment dates is an essential prerequisite for the provision of the services. In the event of failure to meet such deadlines, we shall be entitled to discontinue the work in progress and to withdraw from the contract. All associated costs and lost profit shall be borne by the client. In the event of late payment, interest on arrears will be charged at the usual bank rate.
- 4.6 The customer shall only be entitled to rights of set-off or retention to the extent that its claim has been legally established or is undisputed.

5. Performance time, delays

- 5.1 Unless confirmed by us in writing to be binding, dates of delivery and performance shall be non-binding. We may provide partial services to the extent such part of the delivered parts can be reasonably used by the customer.
- 5.2 Delivery and performance deadlines shall be extended by the period in which the customer is in default of payment under the contract and by the period in which we are delayed by circumstances beyond our control (e.g. (i) because the customer does not meet its obligations to cooperate in accordance with section 3.2, (ii) a refusal to approve concepts or designs results in unforeseen additional expenditure, or (iii) other unforeseeable circumstances occur which may have an impact on the production time) and by a reasonable start-up time after the end of the reason for the hindrance.
- 5.3 If additional services are subsequently agreed which affect agreed deadlines, these deadlines shall be extended by a reasonable period of time.
- 5.4 A Customer shall set a reasonable grace period. A period of less than 2 weeks shall only be reasonable in case of special urgency.

6. Defects, Acceptance, Warranty, Liability, Limitation period

6.1 We warrant that the service rendered by us has the agreed quality, is free from material defects that would render it unsuitable for the intended or customary use and is free from third party rights. No further warranty shall be assumed. Insignificant deviations from the agreed quality shall not constitute a defect.

6.2 Prior to its use, the customer shall immediately and thoroughly inspect each individual service provided by us that contains elements of the contract for work and services. The customer shall notify us of any defects without delay in writing and with sufficient documentation so that the defect can be rectified as quickly as possible and all measures necessary for the examination and rectification of the defect can be carried out. If there are no significant defects, the service shall be accepted by the customer. Acceptance shall take place no later than four weeks after delivery.

If the customer allows the aforementioned period to elapse, the respective service product shall be deemed to have been accepted, unless inspection and acceptance were not possible or not reasonable within the aforementioned period. If the customer further processes or resells the service/product, acceptance shall also be deemed to be granted.

If there are significant defects, a new acceptance shall be carried out after the defects have been remedied, for which the above provisions shall apply accordingly.

Insofar as a service consists of the delivery of an object of purchase, the obligation to inspect and give notice of defects in accordance with section 377 HGB (German Commercial Code) shall apply with the respective legal consequences.

6.3 Irrespective of the legal grounds, we shall only be liable for damages in the event of intent and gross negligence. In the event of simple negligence, we shall only be liable

- a) for damages resulting from injury to life, body or health,
- b) for damages resulting from the breach of an essential contractual obligation, the fulfilment of which is a prerequisite for the proper execution of the contract and on the fulfilment of which the contractual partner regularly relies and may rely; however, in such case, our liability shall be limited to compensation for the foreseeable, typically occurring damage,
- c) in accordance with the provisions of mandatory statutory liability regulations (e.g. Product Liability Act),
- d) for damages caused by defects due to the absence of warranted characteristics and for such consequential damages against which the warranty was intended to protect the customer.

The personal liability of our legal representatives, vicarious agents and employees for negligent conduct shall be excluded.

6.4 In the cases specified in section 6.3, we shall not be liable for indirect damage, consequential damage and loss of profit.

6.5 In the cases specified in section 6.4, we shall be liable for the amount per claim up to a maximum of 100% of the net remuneration paid for the respective service item from the offer and for all claims within a calendar year up to a maximum of 50% of all net remunerations paid within the year in question.

6.6 Except in the cases specified above, we shall not be liable, i.e. all other claims and rights of the customer (e.g. withdrawal, reduction, adjustment of the contract, reimbursement of expenses, etc.) shall be excluded, unless and to the extent this does not violate statutory provisions. In particular, we shall not be liable for defects resulting from the properties of the material, even if the customer's material is processed.

- 6.7.1 All claims against us shall become statute-barred within one year from the date of performance or delivery of the respective service. Insofar as acceptance has been agreed, the limitation period shall commence with the acceptance or with the fiction thereof in accordance with section 6.2 of these GTC.

7. Cancellations

Cancellations of orders by the customer are only possible with our written consent. If such consent is granted, we are entitled to charge a cancellation fee of up to 30% of the order value in addition to the services rendered and costs incurred by us.

8. Retention of title

- 8.1 We shall retain title to the goods sold until all our present and future claims against the customer have been paid in full.
- 8.2 The goods subject to retention of title may neither be pledged to third parties nor assigned as security before full payment of our claims. The customer shall notify us immediately in writing if and to the extent that third parties seize the goods belonging to us.
- 8.3 In the event of conduct by the customer in breach of contract, in particular in the event of non-payment of the due remuneration, we shall be entitled to withdraw from the contract in accordance with the statutory provisions or/and to demand surrender of the goods on the basis of the retention of title. The demand for return does not at the same time include the declaration of withdrawal; we are rather entitled to demand only the return of the goods and to reserve the right of withdrawal. If the customer does not pay the due purchase price, we may only assert such rights if we have previously set the customer a reasonable deadline for payment without success or if setting such a deadline is dispensable according to the statutory provisions.
- 8.4 The purchaser shall be authorized to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply additionally.
- (a) The retention of title shall extend to the products resulting from the processing, mixing or combining of our goods at their full value, whereby we shall be deemed to be the manufacturer. If, in the event of processing, mixing or combining with goods of third parties, their right of ownership remains, we shall acquire co-ownership in proportion to the invoice values of such processed, mixed or combined goods. Otherwise, the same conditions shall apply to the resulting product as are applicable to the goods delivered under retention of title.
 - (b) The customer shall hereby assign to us by way of security all claims against third parties arising from the resale of the goods or the product in total or in the amount of our co-ownership share, if any, in accordance with the preceding paragraph. We shall accept the assignment. The obligations of the customer stated above under paragraph 2 shall also apply in respect of the assigned claims.
 - (c) In addition to us, the purchaser shall remain authorized to collect the claim. We shall undertake not to collect the claim as long as the customer meets his payment obligations towards us, is not in default of payment, no application for the opening of insolvency proceedings has been filed and there is no other deficiency in his ability to pay. If this is the case, however, we may demand that the customer inform us of the assigned claims and their debtors, provide all information required for collection, hand over the relevant documents and inform the debtors (third parties) of the assignment.

- (d) If the realizable value of the securities exceeds our claims by more than 10%, we shall release securities of our choice at the customer's request.

9. Property rights

- 9.1 The customer shall be responsible to ensure that no third-party rights are infringed in connection with its orders.
- 9.2 If the production, processing and/or delivery of the service infringes patents, trademarks, copyrights or other intellectual property of third parties and if this is based on the specifications, instructions and/or drawings of the customer, the customer shall indemnify us against any claims of third parties upon first written request, including all expenses necessarily incurred by us from or in connection with the claim by a third party (e.g. legal costs).

10. Place of performance, Choice of law, Place of jurisdiction

- 10.1 The place of performance shall be our place of business.
- 10.2 These GTC and all legal relationships between us and the Customer shall be governed by the laws of the Federal Republic of Germany, excluding international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.
- 10.3 The place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our place of business. However, we shall also be entitled to bring an action at the customer's general place of jurisdiction.