

**STAHLWERK ANNAHÜTTE MAX AICHER GMBH & CO KG**  
**GENERAL TERMS AND CONDITIONS OF BUSINESS**

**§ 1 Scope of the conditions**

1.)

SAH's supplies, services and quotations are provided exclusively on the basis of these terms and conditions of business. These thus also apply to all future business relationships, even if they are not explicitly agreed again. These conditions count as having been accepted on receipt of the goods or services, if not earlier. Counter-confirmation by the purchaser with reference to its business and/or purchasing conditions is herewith contradicted. Any agreements at variance with these terms and conditions of business only become an element of the contract if SAH confirms them in writing.

2.)

All agreements reached between SAH and the purchaser in connection with executing the contract must be recorded in writing.

**§ 2 Making quotations and entering into contracts**

1.)

SAH quotations are subject to change and are not legally binding. Declarations of acceptance and all orders must be confirmed by SAH by letter or fax in order for them to be legally effective.

2.)

Drawings, illustrations, measurements, weights and other performance data are only legally binding if that has been explicitly agreed in writing.

3.)

SAH sales employees are not authorised to reach, orally, supplementary agreements or to make oral promises that go beyond the content of written contracts.

**§ 3 Prices**

1.)

Unless something else has been agreed, SAH holds to the prices contained in its quotations for 30 days from the dates of making them.

It is, in any case, the prices specified by SAH in the order confirmation, plus turnover tax at the rate applicable by law, which are definitive. Additional deliveries and services are invoiced separately.

2.)

Provided nothing else has been agreed prices are FOB warehouse (place).

3.)

If the customer and SAH have entered into a master contract (permanent debt obligation), SAH has the right to increase or lower prices to the extent that the "scrap and alloying supplement" changes. In so far as a period of 4 months and more elapses between the

entering into of the contract and the delivery of the steel, SAH has the right to increase the price in the context of any possible increase in the “scrap and alloying supplement”. This applies to individual contracts.

4.)

In the case of the business having been written in a foreign currency, the conversion takes place – at SAH’s option – by taking the exchange rate officially announced by the Deutsche Bundesbank at the time of entering into the contract or at the date of delivery. The purchaser bears the exchange risk. In the event of the purchaser being a German legal entity and a debt having been expressed in a foreign currency, the purchaser must – at its own expense – obtain the necessary approvals of the Deutsche Bundesbank. If the purchaser is unable to comply with the agreed method of payment, then it is obliged to make the payment by whatever method is chosen by SAH.

#### **§ 4 Time limits for delivery and performance**

1.)

Delivery deadlines and/or periods for delivery, which may be agreed with or without legally binding force, must be in writing. A period for delivery begins, at the earliest, when the order is confirmed.

2.)

SAH does not have to be answerable – even in the case of periods and deadlines that have been agreed with legally binding force – for delays in delivery and performance because of force majeure and because of events that make delivery for the vendor substantially more difficult over quite some period of time or indeed impossible (including in this, in particular, strikes, lock-outs, official directives and so on), including if such events interfere with the performances of SAH’s suppliers or their upstream suppliers.

Such events justify SAH in postponing its delivery and/or performance by the period of restriction plus an appropriate start-up period, or in withdrawing wholly or partially from the contract on account of the part thereof that has not yet been fulfilled.

3.)

If the period of restriction lasts longer than three months, the purchaser has the right – after an appropriate period of grace has been set – to withdraw from the contract in respect of the part of it that has not yet been fulfilled. The purchaser may not derive any claims for compensation in damages if the time for delivery is extended or if SAH becomes free of its obligation to deliver. SAH may only appeal to the circumstances specified if it has informed the purchaser immediately of their existence.

4.)

If SAH must answer for non-compliance with delivery periods and deadlines promised with legally binding force, or is behind with its deliveries, the purchaser has a claim for compensation for damage resulting from delay of 0.5% for each week of delay completed, but for an overall maximum of up to 5% of the invoice value of the delivery and performance affected by the delay. Claims going over and above that are ruled out, unless the delay is at least based on gross negligence on the part of SAH.

5.)

SAH has the right at any time to make part deliveries and render partial performances, unless such part deliveries and partial performances are of no interest to the purchaser.

6.)

SAH's compliance with its obligations to deliver and perform presupposes that the purchaser has fulfilled its obligations properly and in good time.

7.)

If the purchaser falls behind in acceptance, then SAH has the right to demand reimbursement of the loss arising for it. The risk of accidental deterioration and of accidental destruction passes to the purchaser when delay in acceptance occurs. SAH has the right in the case of delay in acceptance – after setting a two-week period of grace – either to assert the purchase price without the purchaser being able to make a plea for a “step by step” process, or to withdraw from the contract and/or to demand compensation in damages on account of non-fulfilment thereof. SAH has the right to do that, without setting any period of grace, in the case of payment being suspended, or of the purchaser becoming insolvent or burdened by excessive debt.

## **§ 5 Passage of risk**

Risk passes to the purchaser as soon as a shipment has been handed over to the legal entity carrying out transportation, or has left SAH's warehouse for the purposes of shipment. If despatch is delayed at the purchaser's request, then risk passes on SAH's notification to the purchaser that the goods are ready to despatch. Deliveries are only insured on the express wish of the purchaser and for its account. Costs of transportation are for the purchaser's account.

## **§ 6 Rights of the purchaser on account of defects**

1.)

Goods are delivered free of defects in the materials and the fabricating processes concerned. Claims on account of defects must be asserted within one year of goods having been delivered.

2.)

The purchaser must inform SAH about defects in writing immediately, but at the latest within one week of the arrival of the goods concerned. With regard to defects that it is not possible to discover – even in the case of careful checking – within that period, these must be reported to SAH immediately they are discovered.

## **§ 7 Retention of title**

1.)

Until all claims (including all balance claims on current account) on the purchaser to which SAH is entitled on whatever legal basis now or in the future have been settled, the following securities are granted to SAH that it will release on request at its option to the extent that their value persistently exceeds the value of the claims by more than 20%.

2.)

The goods remain SAH's property. Processing or transforming them is always undertaken for SAH as manufacturer, but without obligation for SAH. If SAH's (joint) ownership is extinguished as a result of compounding, then it is here and now agreed that the purchaser's (joint) ownership in the integrated goods passes over to SAH in proportion to its (invoice) value. The purchaser safeguards SAH's (joint) ownership at no charge. Goods to which SAH has (joint) ownership entitlement are described below as goods sold subject to retention of title.

3.)

The purchaser has the right to process and dispose of goods sold subject to retention of title in the proper course of business, providing it is not in arrears. Hypothecations or transfers of ownership by way of security are not allowed. The purchaser here and now assigns on account of security any claims arising from onward sale or on any other legal basis (insurance, unauthorised handling) in relation to the goods sold subject to retention of title (including all balance claims on current account) completely to SAH. SAH gives the purchaser irrevocable authorisation to collect in its own name the claims assigned to SAH for its account. This authorisation to collect may only be revoked if the purchaser does not comply properly with its payment obligations.

4.)

In the case of third parties obtaining access to the goods sold subject to retention of title, and especially in the case of levies of execution, the purchaser will draw attention to SAH's ownership and inform SAH immediately so that the latter may enforce its right of ownership. To the extent that the third party is not in a position to reimburse SAH for whatever court or out-of-court costs may arise for it in this connection, the purchaser is liable for such costs.

5.)

In the case of behaviour by the purchaser in breach of contract, and especially in the case of delay in payment, SAH has the right to withdraw from the contract and to demand back the goods sold subject to retention of title. SAH may, in this case, immediately demand of the purchaser a listing of the goods that are still in existence and under retention of title by SAH, and also of the extent to which they are being processed. No withdrawal from the contract is involved in the taking back or in the levying of execution of goods sold subject to retention of title by SAH.

## **§ 8 Payment**

1.)

Unless something else has been agreed, SAH's invoices are due for payment within 10 days of submission of invoice with 1% cash discount or net within 30 days thereof.

SAH has the right, despite any contrary stipulations by the purchaser, to set payments off first against its older debts. SAH will inform the purchaser of the manner of the set-off that has been effected. If costs and interest have already arisen, then SAH has the right to set the payment off first against the costs, then against the interest, and finally against the principal performance.

Any payment only counts as having been made when SAH is able to dispose of the sum concerned. In the case of cheques, payment only counts as having been made when the cheque has been credited to SAH's account.

2.)

If the purchaser falls into arrears, then SAH has the right to demand interest from the point in time concerned onwards at the rate of 8% above the basic rate of interest, as a flat-rate reimbursement of loss. The interest is to be set lower if the purchaser proves that the burden for SAH was lighter, while it is admissible for SAH to prove that its loss was higher.

3.)

If circumstances that bring the purchaser's credit-worthiness into question become known to SAH, and particularly if the purchaser dishonours a cheque or discontinues its payments, then SAH has the right make the entire balance owing immediately due for payment, even if it has accepted cheques. In this case SAH has the additional right to demand payments in advance or provision for security. Sentence 1 and 2 applies also if our credit insurance declines the coverage of the payment request against the customer due to lack of credit-worthiness or due to exceed the insured capital.

4.)

The purchaser only has the right to set off, and rights of retention or abatement - even when complaints about defects or counter claims have been asserted - if the counterclaims have been established with legal force or are uncontested. The purchaser does, however, also have the right of retention on account of counterclaims arising from the same contractual relationship.

## **§ 9 Changes in design**

SAH reserves the right to undertake changes in design at any time. It is not, however, obliged to undertake such changes in respect of products that have already been delivered.

## **§ 10 Confidentiality**

Unless something else has been explicitly agreed in writing, information passed over to SAH in connection with the order does not count as confidential.

## **§ 11 Liability**

1.)

Claims for compensation in damages are, irrespective of the type of breach of duty including unauthorised acts, excluded unless intentional or grossly negligent action is involved.

2.)

In the case of breach of substantial contractual duties, SAH is liable for any negligence but only up to the level of damage that could have been foreseen. Claims for lost profit, for

expenditure not incurred arising from third party claims for compensation in damages, and claims for other indirect and consequential damages may not be demanded, unless some characteristic feature guaranteed by SAH has as its object the guarding of the purchaser against such damage.

3.)

The liability restrictions and exclusions of paragraphs 1) and 2) above do not apply for claims that have arisen on account of malicious behaviour on the part of the vendor, nor in the case of any liability for guaranteed characteristic features, for claims under the product liability law and for damages arising from violation of life, the body or health.

4.)

To the extent that SAH's liability is excluded or restricted, the same applies to its employees, workers, representatives and vicarious agents.

## **§ 12 Applicable law, place of jurisdiction, partial nullity**

1.)

The law of the Federal Republic of Germany applies to these terms and conditions of business and to the entire legal relationship between SAH and the purchaser. The provisions of the UN Purchasing Law do not apply and are expressly ruled out.

2.)

In so far as the purchaser is a merchant, legal entity under public law or special fund in terms of public law, Traunstein is the exclusive place of jurisdiction for all disputes resulting directly or indirectly from the contractual relationship.

3.)

Should any provision in these terms and conditions of business or any provision in the context of other agreements be or become ineffective, then the effectiveness of all other provisions or agreements are not affected thereby.