

1. Scope of application

Our following terms and conditions of purchase shall apply exclusively to orders placed by us. All terms and conditions of the supplier - regardless of their content - shall not apply, even if we have not expressly objected to them or we accept the delivery without reservation in the knowledge of the supplier's terms and conditions.

- b) Verbal collateral agreements do not exist.
- c) Our Terms and Conditions of Purchase shall only apply to contractors within the meaning of Section 310 (1) of the German Civil Code (BGB).

2. Enquiries, orders, conclusion of contract

- a) Our enquiries are non-binding.
- b) Our orders are only binding to the extent that they have been made in writing.
- c) The supplier can only accept our binding order within a period of 2 weeks from its receipt. The receipt of the declaration of acceptance by us shall be decisive for compliance with the deadline.
- d) If the supplier deviates in its offer from our enquiry or in its declaration of acceptance from our order, it must expressly point this out.

3. Prices, price changes

- a) The prices stated in our order are fixed prices and include the applicable statutory value added tax. If our order does not contain a price specification, the price specified in the supplier's order confirmation shall only be agreed once it has been confirmed by us.
- b) We must be informed immediately in written of any additional or reduced price resulting from changes in execution.

4. Delivery, shipping, and packaging

- a) Delivery, dispatch, and packaging shall be made free domicile to the place of receipt specified by us at the supplier's expense.
- b) The risk shall only pass to us upon acceptance at our receiving point.
- c) The supplier must enclose 2 copies of the delivery note with each consignment. The invoice must be sent in duplicate together with a duplicate delivery note. In all correspondence concerning our order as well as in the shipping documents, our order number with order and material number must be indicated.
- d) Sensitive goods must be marked accordingly.
- e) The supplier shall bear the costs arising from non-compliance with our shipping instructions.

5. Delivery dates, contractual penalty

- a) The delivery periods and dates stated in our order are binding for the supplier. Delivery periods run from the date of the order.
- b) The supplier is obliged to inform us in writing without delay if circumstances arise or become apparent to him which indicate that the stipulated delivery time cannot be met.
- c) In the event of a delay in delivery, we shall be entitled to the statutory claims. Furthermore, we are entitled to demand a contractual penalty of 0.1% of the net delivery value per working day, but in total not more than 5% of the net delivery value. The reservation of the contractual penalty must be declared to the supplier within 10 working days at the latest, calculated from acceptance of the delayed delivery. Working days are the days from Monday to Friday. We are entitled to claim a contractual penalty in addition to performance. Further claims and rights on our part remain reserved. The contractual penalty paid shall be offset against a claim for damages.
- d) We are not obliged to accept delivery before the expiry of the delivery date.
- e) In cases of force majeure, we shall be released from the acceptance obligation for the duration of the hindrance. Claims of the supplier for counter-performance or damages are excluded in these cases.

6. Payment

Unless otherwise agreed in written, our payment shall be made within 30 days with a 3% discount or after 60 days net, calculated from complete delivery and receipt of invoice.

7. Condition of the goods, notice of defects, liability for material defects

- a) All deliveries and services of the supplier must be free of material defects. In particular, they must comply with the contractual agreements and be made of material that is best suited and durable for the relevant contractual or operational purpose and for the stresses that occur. They must also comply with the VDE regulations, the law on technical work equipment, the relevant accident prevention, occupational safety and environmental regulations, the relevant technical standards and the generally recognised rules of technology. Knowledge that goes beyond the state of the art shall be communicated to us without being requested to do so.
- b) The delivered goods shall be inspected by us for any material defects within a reasonable period of time. The inspection of the goods shall be carried out in accordance with our quality guidelines. A notice of defect shall be deemed to be timely within the meaning of Section 377 (1) of the German Commercial Code (HGB) if it is received by the supplier within a period of 5 working days from receipt of the goods in the case of visible defects and within a period of 5 working days from their discovery in the case of hidden defects.
- c) Payment for the goods does not imply their approval as being in conformity with the contract and free of defects.
- d) If the delivered goods are defective as to quality, we shall be entitled to the resulting statutory claims for defects without limitation. In addition, we are entitled to remedy the defect ourselves or have it remedied by third parties at the supplier's expense if a remedy of the defect by the supplier cannot be waited for due to imminent danger or special urgency.
- e) The limitation period for claims for defects is 3 years, calculated from the date of delivery of the goods to us. In the case of goods purchased exclusively for the purpose of stocking spare parts, however, the limitation period shall not commence until they are removed from our spare parts warehouse for the purpose of resale or further processing. However, the limitation period for these goods ends at the latest five years after their delivery to us.

8. Tools, drawings, confidentiality

- a) We reserve the property rights and copyrights to any tools, samples, models, drawings, or other documents provided. They may not be made accessible to third parties without our consent and must be returned immediately upon request.
- b) The supplier is obliged to use the tools exclusively for the manufacture of the goods ordered by us. He is also obliged to ensure the tools belonging to us at replacement value against fire, water, and theft damage at his own expense. At the same time, he hereby assigns to us all claims for compensation arising from this insurance; we hereby accept the assignment. Furthermore, the supplier is obliged to carry out any necessary maintenance and inspection work on our tools as well as all maintenance and repair work at his own expense and in good time. He must notify us immediately of any malfunctions.
- c) The supplier is obliged to keep all illustrations, drawings, calculations and other documents and information received strictly confidential. They may only be disclosed to third parties with our express consent. The obligation to maintain secrecy shall also apply after the execution of this contract; it shall expire if and to the extent that the production knowledge contained in the illustrations, drawings, calculations, and other documents provided has become generally known.
- d) If the supplier violates one of the above obligations, it shall be liable for damages unless it is not responsible for the violation of the obligation.

9. Property rights

- a) The supplier guarantees that the delivery and use of the goods ordered by us do not infringe any third-party property rights in Germany or abroad.
- b) If claims are made against us by a third party in this respect, the supplier shall be obliged to indemnify us against these claims upon first written request. This shall also apply with regard to all necessary expenses incurred by us from or in connection with this claim.

**General Terms and Conditions of Purchase of the F. W. Brökelmann Aluminiumwerk GmbH & Co. KG
(Version dated 05.2009)**

c) We are not entitled to make agreements of any kind with the third party - without the supplier's consent - in particular to conclude a settlement.

d) The limitation period for the claim for indemnification is three years, calculated from our knowledge of the claim by the third party.

10. Provision, Retention of title

a) We reserve title to the items provided by us (goods subject to retention of title). These are to be stored clearly and separately from other items and identified as our property. They must also be adequately insured against fire, water, and theft.

b) Processing or transformation by the supplier shall be carried out for us. If our goods subject to retention of title are processed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of our item (purchase price plus VAT) to the other processed items at the time of processing. The supplier shall keep the sole ownership or the co-ownership for us free of charge.

c) The aforementioned provision in section 10 subsection 2 shall apply accordingly if the item provided by us is inseparably mixed with other items not belonging to us. If, however, one of these processes gives rise to sole ownership by the supplier because an item belonging to him constitutes the main item, it shall be deemed agreed that the supplier transfers co-ownership of this item to us in proportion to the value of the goods subject to retention of title (purchase price plus VAT) in relation to the entire item and shall keep the co-ownership thus created in safe custody for us free of charge.

11. Product liability

a) Insofar as the supplier is responsible for product damage, it shall be obliged to indemnify us on first demand against claims for damages by third parties, including the necessary costs of defence against these claims, insofar as the cause of this product damage lies within its sphere of control and organisation and it is itself liable in relation to third parties.

b) If we have to carry out a recall action due to a case of damage within the meaning of Clause 11, Paragraph 1, the supplier shall be obliged to reimburse us for all expenses arising from or in connection with the recall action carried out by us. Further legal claims on our part remain unaffected.

c) We shall inform the supplier - insofar as possible and reasonable for us - of the content and scope of the recall action and give him the opportunity to comment.

d) The supplier undertakes to take out and maintain product liability insurance with an appropriate sum insured for personal injury and property damage. He is obliged to inform us of the scope and amount of cover on request. Insofar as we are entitled to claims which exceed the sum insured agreed by the supplier, these shall remain unaffected.

12. Offsetting and Retention

a) The supplier shall only have a right of set-off against undisputed, legally established, or ready-for-decision claims against us.

b) The supplier shall only be entitled to a right of retention with regard to such undisputed, legally established, or ready-for-decision claims which originate from the same contractual relationship with us.

13. Assignment

a) We are entitled to assign all claims arising from the contract with the supplier without the supplier's consent.

b) The rights and obligations of the supplier arising from the legal transactions concluded with us are not transferable. The supplier is not entitled to assign claims against us in whole or in part without our prior consent. Cheques issued by us may not be endorsed further.

14. Place of Performance and Jurisdiction

a) The place of performance for all claims arising from the delivery contract and the place of jurisdiction for all disputes arising from the delivery contract is our registered office. However, we are also entitled to sue the supplier in his general place of jurisdiction.

b) In all other respects - including for import contracts - German law shall be exclusively agreed. The provisions on the international purchase of movable goods, in particular the UN Convention on Contracts for the International Sale of Goods (CISG), are expressly excluded. This shall also apply if the supplier has its registered office abroad.

Note:

Data of the supplier and third parties involved are stored and processed by us by means of EDP insofar as this is necessary for the proper processing of the contractual relationships. Within the scope of this processing purpose, the aforementioned data may also be transferred to companies in which we have an interest or with which we cooperate in order to process the contract.