

**General Terms & Conditions of Business and Delivery**  
**RADU Stahl GmbH, Matthias-Claudius-Str. 5, 41564 Kaarst**  
**Registration court: Amtsgericht Neuss, HRB 13831**  
**Last update: 01 July 2006**

**I Conclusion of Contract**

All business, deliveries and any other services are subject to the present Terms & Conditions. They shall apply even if no reference is expressly made to them in any negotiation; the same shall apply to all future business relations. We do not acknowledge any conflicting Terms & Conditions of our customers. Unless our own Terms & Conditions of Business contain any provisions differing from the Terms & Conditions of Business of our customers, we hereby explicitly oppose the Terms & Conditions of Business of our customers, so that the general legal regulations shall be applicable.

If we act in an advisory capacity for our customers, the advice given shall be without obligation for us. Our offers shall be subject to confirmation.

Only agreements expressly confirmed by us in writing shall become the subject matter of a contract. Any offers or customer orders shall not be legally binding until confirmed by us in writing.

**II Prices**

All our prices are quoted excluding the applicable value added tax. For third-party business transactions they shall apply ex loading bay at our site, and for warehousing business ex warehouse. For deliveries ex works we reserve the right to charge any price increases of the supplying site which may occur from the time of signing a contract until the goods are shipped to the customer. If fixed prices are agreed, we reserve the right to charge any price increases charged by our suppliers to the customer if the goods are shipped more than four months after the conclusion of the contract.

Any extra charges and any additional taxes or freight costs, or any increases thereof, that may affect deliveries either directly or indirectly, shall be paid by the customer in so far as this does not conflict with any applicable legal regulations.

Packaging costs, rental fees and any charges for wear in respect of packaging material, as well as the cost of returning the packaging materials, shall be paid by the customer.

**III Terms of payment**

Payments for deliveries shall be made net cash by the 15<sup>th</sup> day of the month following the month of delivery. The relevant date shall be the date of receipt of payment.

Payments through bills of exchange shall be accepted on account of performance by express written agreement only.

If the agreed term of payment is exceeded, the debt shall be subject to an interest rate 8 percentage points higher than the base lending rate, without requiring a prior reminder. The right to enforce further damages caused by default is reserved.

The customer may set off receivables only if they are approved in writing or declared legally binding.

**IV Delivery times and delivery deadlines**

All delivery times announced by us shall not be binding upon us, and they shall be considered to be the times at which we endeavor to effect delivery.

The date relevant for compliance with any binding times and deadlines shall be the time of shipment, either ex works or ex warehouse, as the case may be. Delivery times and deadlines shall be deemed to have been complied with upon notification that the goods are ready for shipment if they cannot be shipped on time without default on our part. We shall not be liable for any delays in delivery due to circumstances for which our suppliers are responsible. Already at this point we transfer our claims for delays in delivery on the part of our suppliers to our customers with binding force.

Before the delay in delivery can be admitted the customer shall grant to us a reasonable grace period for performance of the contract. The delivery deadline shall be deemed to have been complied with when we announce that the goods are ready for shipment or that they have been shipped. We refuse to pay any contractual penalties charged by the customer's customer. Under any circumstances of force majeure we shall have the right to extend the delivery time by a period equal to the duration of the circumstances of force majeure. Any circumstances shall be deemed equal to force majeure that substantially complicate delivery for us or that render the delivery impossible, e.g. exercised jurisdiction, strike action, lock-outs, breakdown of operations as well as any obstruction of our distribution channels, irrespective of whether such circumstances occur in our own operations, with our suppliers or with the suppliers of our suppliers.

**V Retention of title**

All goods shall remain the property of the seller until all claims have been paid in full, including any secondary claims, damage claims and payment of cheques and bills. In the event of a deterioration of the business situation of our customer we shall have the right to inspect our goods and to secure them if necessary.

The customer shall have the right to continue to process and to sell the goods, but subject to the following provisions:

The customer's right to process goods subject to retention of title as part of his routine business shall end either when the customer makes the respective payments or when insolvency proceedings are instituted in respect of the customer's assets, without prejudice to the right of revocation on the part of the seller at any time. The latter shall also apply if the insolvency proceedings are initiated by a third party.

By processing the goods subject to retention of title the customer, who processes the goods on behalf of the seller, shall acquire the title of ownership in respect of the new object in acc. w. article 950 BGB (*German Code of Civil Law*). If the goods subject to the retention of title are processed together or mixed or mingled with other items, the seller shall acquire co-ownership in respect of the new goods, to the percentage of the value of the goods subject to the retention of title to the total equivalent value.

The customer hereby transfers all his claims, including all ancillary rights, from the sale of the goods subject to retention of title to the seller; if the value of the new product is higher than the value of the goods subject to the retention of title, then the seller shall acquire co-ownership in proportion to the value of the goods subject to the retention of title if such goods are processed together or mixed or mingled with other items, to the value of the newly manufactured item. In respect of the assigned title of ownership the seller shall be entitled to a proportion of the receivable sales price equivalent to the proportion of the invoice amount for the item. If the customer sells the title by genuine factoring, he shall assign the title against the factor that replaces it to the seller.

The seller shall not disclose the assigned claim as long as the customer fulfills his financial obligations and as long as his financial condition does not change substantially. The customer's direct debit authorization shall expire in the event of a delay in payment or substantial deterioration of his financial condition. At the seller's request the customer shall provide him with a list of his (the seller's) debtors, stating their names, addresses, the amount of each claim and the invoice dates. The customer shall treat payments received from assigned claims separately.

In particular, the customer shall inform his bank before receipt of payment that the payment is related to a claim that has been assigned to the seller.

The retention of title shall persist even if individual claims on the part of the seller are included in a current invoice and the account is balanced and acknowledged. The seller shall have the right to retain the title not only in respect of the acknowledged final balance, but also for the causal balance. Already at this point the seller shall release all deliveries that have been fully paid if the security provided by the retention of title is 10% higher than the claim to be secured.

Amounts transferred by way of security in respect of the goods subject to a retention of title, or the assigned claims, shall not be used. The seller shall be notified of any attachments of debts, precisely stating the creditor with right of lien and the date and reference number of the order of attachment and transfer of the garnished claim. A repurchase of the goods subject to a retention of title shall be deemed to be a withdrawal from an agreement only if the seller expressly states it. In the other event, the repurchase of such goods shall merely be deemed to serve the purpose of securing the seller's claim, who may sell the repurchased goods subject to a retention of title on the open market to satisfy his claim.

The customer shall manage the goods subject to a retention of title on behalf of the seller at no cost for the seller, using the proper care of a prudent businessman. He shall take out sufficient insurance coverage for the goods against the usual hazards, such as fire, theft and damage by water. The customer shall hereby assign his claim for damages against the insurer to the seller to the amount of the seller's claim. Any rights arising from the retention of title and all special forms defined in these conditions shall be applicable until full indemnity from any contingent liabilities is achieved into which the seller may have entered in the interest of the customer.

#### **VI Grades, dimensions and weight**

Grades and dimensions shall be defined by European standards or material datasheets unless foreign standards have been agreed in writing. If no European standards or material datasheets exist, the relevant DIN standards shall apply, and if such standards are also nonexistent, business practice shall apply.

The weighing carried out by us or by our supplier shall be binding for the assessment of the weights of deliveries in accordance with the weighing certificate presented. Weight variations up to 2% shall qualify as proper deliveries. Any notices of defect can be given within 48 hours after delivery upon presentation of an official reweighing certificate.

As far as legally permissible, weights may be determined without weighing in acc. w. European standards. The discounts and surcharges customary in the steel trade (commercial weights) shall remain unaffected. The numbers of pieces, bundles etc. stated in the dispatch note shall not be binding for goods sold by weight. The weights specified shall be understood to be gross for net.

#### **VII Acceptance and Certificate of Inspection**

Material will be accepted and/or inspected only if the relevant material standards contain provisions for acceptance or inspection or when they were expressly agreed between the parties. If acceptance is mandatory, the material shall be inspected by the manufacturing plant and shall be delivered with a site acceptance certificate. The costs associated with the acceptance and inspection at the manufacturing plant shall be paid by the customer. If the customer fails to comply with his duty to cooperate, we shall have the right to ship or to store the goods at the customer's expense and risk.

#### **VIII Shipping, Risk, Transfer, Partial Deliveries, regular deliveries**

The material shall be supplied according to normal trade practice. At the customer's expense we will provide packaging with the care which we also use for our own purposes, and only as far as it is customary in the trade. We shall have to right to make partial deliveries.

Excess and short deliveries in respect of the agreed quantities customary in the trade shall be deemed to have been agreed; however, the delivered quantities shall not be more than 10% higher or lower than the order quantities to be considered contractual. Goods announced ready for shipping in acc. w. the contract must be called immediately. In the other event, we shall have the right to choose whether to ship them at the customer's risk and expenses or to store them at our own discretion. For contracts for continuous deliveries we shall receive calls and classifications for roughly equal monthly quantities. If a quantity agreed by contracts is exceeded by an individual call, we shall have the right to supply the excess quantity, but without obligation to do so. We shall be entitled to charge the excess quantities at the prices applicable to the call or delivery, as the case may be.

#### **IX Notice of Defects and Warranty**

The customer shall immediately inspect all goods delivered as soon as he has access to them. In case of noticeable defects, notice shall be given within a period of 2 weeks. In case of hidden defects, written notice must be given within a period of 2 weeks after discovery of the defects to protect the warranty rights.

If the complaint is justified, we guarantee at our discretion either to repair the defect or to deliver a replacement. If the customer can be reasonably expected to use the material for the intended purpose, we may limit the customer's warranty claims to a reduction in the purchase price.

For goods sold as degraded or as Ila material such flaws shall not be considered to be defects if they were the reasons for the classification as second quality goods; rather, the goods shall be deemed to have been supplied in acc. w. the contract when it is

shipped at our premises. The customer shall demonstrate that the second-quality goods are defective. For subcontracted work (trimming or splitting of coils or the cutting to size of pickled, cold-rolled or surface-treated sheet metal) the liability shall be limited to the actual cost of the work.

The above-mentioned warranty is subject to the proviso that the customer allows us to inspect the goods immediately and that the customer places the goods, or samples thereof, at our disposal.

All further warranty claims are excluded, specifically claims for the replacement of damages not caused to the goods directly (consequential harm caused by a defect). Liability shall be excluded for all contractual and quasi-contractual claims and for claims of liability in tort, provided that the seller is not liable for damages caused intentionally or by gross negligence.

The exclusion of liability shall not be applicable to damage to life, body or health as a result of intentional or negligent breach of duty on our part or on the part of our legal representatives or agents.

#### **X Place of Performance, Jurisdiction and Applicable Law**

The place of performance in respect of our deliveries is Kaarst; the place of jurisdiction is Neuss. We shall also have the right to file suit before a competent court of law at the customer's headquarters. The legal relationship between the seller and the customer shall be subject to German law exclusively; the UN sales convention is hereby excluded.

If any of the provisions of the above Terms & Conditions of Business is found to be ineffective, the legal provision shall be understood to have been agreed between the parties hereto that most closely reflects the discernible commercial objective of the ineffective provision.