

Terms of purchase
at
BGH Edelstahlwerke GmbH
BGH Edelstahl Freital GmbH
BGH Edelstahl Lugau GmbH
BGH Feindraht GmbH
BGH Edelstahl Lippendorf GmbH
BGH Edelstahl Siegen GmbH
BGH SL-Stahl GmbH
SEW Beteiligungs-und Verwaltungs-GmbH & Co

1. General

- 1.1. Our terms of purchase are explicitly applicable to any of our orders. The inclusion of terms and conditions of suppliers, especially their terms of sales and delivery is expressly objected to. The will not be integral part of the agreement.
- 1.2. Oral as well as orders by phone will only be legally binding upon the receipt of our written and signed purchase order.
- 1.3. Documents used in a business transaction between the contractor (=supplier) and us (orderer) shall contain: order number; plant; delivery address/ recipient; complete item text (object reference; quantities and quantity units as well VAT identification number).
- 1.4. Oral agreements after conclusion of contract, especially subsequent changes and amendments to our terms of purchase as well as subsidiary agreements of any kind, require our written confirmation to be effected.
- 1.5. We are entitled to revocation if the supplier does not accept the purchase order within two weeks of their entry. Call offs become legally binding if the supplier does not revoke them within two workdays of their entry.

2. Prices

- 2.1. Prices agreed are fixed prices and are quoted carriage and packing paid to our delivery address/recipient unless fixed otherwise (freight charges are not paid). Cost estimates are not binding; their compilation is free of charge for the orderer if not expressly fixed otherwise. Cartage and extra charges are not paid for.
Packaging is only paid for if fixed in the agreement.
- 2.2. Decisive for the payment are the measures, weights and quantities as fixed by us.

3. Delivery item

- 3.1. Our purchase order is decisive for the contents and scope of the delivery.
- 3.2. Drawings, instructions etc. accompanying the order are legally binding for the supplier. Nevertheless, he has to check them for possible inconsistencies and shall point out to us any obvious or assumed faults without delay. The supplier remains solely responsible for any drawings, plans and calculations created by himself, also if we had already approved of them.
- 3.3. If not stated otherwise in the order, the delivery items shall be supplied in customary grades and in compliance with DIN, VDI, DVGW or any such standards if applicable. Any delivery items are to be equipped in a way that they comply with the applicable legal terms at the place of delivery on the delivery date. This applies esp. to technical work equipment, hazardous substances, accident prevention, emission and workplace protection as well as firm knowledge with regard to occupational science. Mobile electrical operational material and electro-installation material are to be produced according to the applicable VDE standards. Certifiable products have to be approved by VDE and have to bear the VDE certificate permanently.
- 3.4. Incoming applicable weights are determined by our plant scales. If weighing is impossible at our facilities, the weights as confirmed by the Railway offices as confirmed in the BOL apply or the weights determined by a certified scale upon delivery by truck.
If a delivery item is impossible to weigh, the supplier is obliged to account for its structural weight.

4. Scope of performance

- 4.1. The scope of performance also includes the contractor to transfer to the orderer the ownership of any technical documents (also for sub-suppliers) as well as of any other documents required for manufacturing; maintenance and operation. These technical documents shall be compiled in German language in accordance with the international standard system SI.
- 4.2. Any those rights of use are transferred to the orderer; which are required for using of deliveries and performance by the orderer or by third parties considering potential patents, additional Protection certificates, brands, utility patents.
- 4.3. The orderer shall get unconditional authority for restoration of the accepted performance and modification of it by himself or by third parties.
- 4.4. Any deviations from the scope of performance entitle the contractor to raise additional claims or modified schedules only if a respective written amendment has been compiled prior to the execution of the order.
- 4.5. The quantities ordered are legally binding. Excess deliveries entitle the orderer to rejection at the contractor's expenses.

5. Delivery

- 5.1. If not otherwise agreed, deliveries shall be made to the delivery address/recipient or the mailing address named in our order. If a price has been agreed ex works or ex stock, the orderer will only take over the most favorable freight charges.
- 5.2. The delivery addresses stated are to be minded. A delivery to any other recipient than the one stated by the orderer does not result in any transfer of risk for the contractor even if the recipient accepts the shipment. The contractor bears any additional costs resulting from a delivery to any address other than the agreed one.
- 5.3. Partial shipments have to be marked accordingly. Any delivery has to be enclosed auditable BOLs in triplicates. The have to include order number, quantity and exact item identification.
Furthermore, we require a comprehensive dispatch note or a copy of the BOL in case of a third-party delivery. We are not obliged to accept any partial or excess delivery if not agreed expressly. Accordingly, we are not obliged to accept any delivery prior to the agreed delivery date. As the case may be we are entitled to return the goods on the expenses and risk of the supplier or to store it at a third party.

- 5.4. If the contractor is entitled to return any packaging, the BOL has to state it accordingly and clearly. If not marked accordingly, the orderer shall dispose of the packaging material on the expenses of the contractor. As the case may be the contractor's claim to have the packaging material returned expires.
- 5.5. The storage of any objects required for the performance of service on the orderer's premises is merely permitted on storage places marked. The contractor bears the full responsibility and risk for these objects.
- 5.6. In the shipping process the statutory provisions, especially the standards with regard to the shipment of hazardous goods in compliance with the applicable Hazardous Waste Road Directive including its respective annexes and amendments have to be adhered to.
- 5.7. The declaration of goods in the BOL when dispatched by rail has to follow the currently applicable railway regulations. Any costs and damages arising as a result of improper or forborne declaration shall be born by the provider of service.
- 5.8. The provider of service has to get written confirmation of the receipt of the shipment by the recipient/delivery address.

6. Delivery period

The delivery periods and deadlines are legally binding. The delivery time is met upon receipt of the shipment by us on the day agreed at our plant or at the delivery address/recipient agreed otherwise and if the receipt of goods has been confirmed by an authorized person. Any delay in the delivery period has to be communicated to us as soon as possible and with an announcement of the earliest possible delivery date. A noncompliance with any delivery periods and delivery dates entitle us to withdraw from the contract and claim damages after the granting of a grace period and a corresponding announcement. The latter is valid also if we had priorly accepted delayed deliveries without reservation. A grace period shall not be set if the delivery date has been agreed "fix". The mentioned right to withdraw applies irrespectively if the supplier is to be held responsible for the noncompliance with the delay, i.e. also if he fails to deliver due to force majeure, strike, lockout etc.

7. Notice of termination

- 7.1. The orderer is entitled to terminate the entire contract or parts of it without stating a reason. As the case may be he is obliged to settle payment for any deliveries and/or performances rendered and to compensate for any material and performed services appropriately; additionally § 649; p 2, 2nd clause BGB applies. Any further claims by the contractor are foreclosed.
- 7.2. The orderer is also entitled to terminate the contract if the contractor's assets are subject to insolvency proceedings or if the contractor has suspended any payments. The orderer is granted the right to take over material, semi-finished products including type specific tools at appropriate conditions.

8. Warranty, notification of defects and liability

- 8.1. The supplier bears liability that his deliveries meet the approved technical rules and statutory provisions as e.g. work safety and environment protection and that they meet the features agreed in the contract. He holds responsible too for the compliance with the grade, quality, measurement, design as well as professional manufacturing and completeness of the goods delivered by him as well as for the stated and agreed performance.
- 8.2. In case of a defective delivery or performance we are entitled to claim for defects.
- 8.3. In urgent cases or if the supplier fails to meet his obligation for immediate supplementary performance upon our demand note, we are entitled to touch up or replace defective parts on his expenses or to eliminate any damages.
- 8.4. Material defect claims expire after the statutory period. For this same period the supplier takes over the unreserved warranty for the condition of the goods as per agreement. For a period of six month upon passing of risk, the supplier bears the onus of proof that the goods were free of defects at the point of risk transfer.
- 8.5. For any maintained or repaired parts of the delivery within the limitation period for our defects claim, the period of limitation starts anew at the time point the supplier has fully met our demand for supplementary performance.
- 8.6. In case any costs arise due to the defective performance with regard to the object of agreement, esp. costs for transport, work, material or excess costs for additional incoming inspections, the supplier shall bear these costs.
- 8.7. Do we take any products we produced and sold back due to their defectiveness of the objects of the agreement as delivered by the supplier or have we therefore faced a reduction in the sales price or have any claims been made against us, we reserve the right to recourse to the supplier, whereas a settling of deadline otherwise required for our defect claims is void.
- 8.8. Defect claims are effected in time according to §377 HGB, when obvious defects are announced to the supplier within three weeks upon their discovery. With hidden defects a deadline of at least six months upon delivery applies.
- 8.9. In case any claims are made against us in terms of product liability, the supplier is obliged to exempt us from any these claims if the defect has been caused by a fault in the supplier's object of agreement. In case of fault-based liabilities this only applies if the supplier is to be blamed for it. Is the supplier to be held responsible for the cause of defect he carries the full onus of proof. In this case the supplier bears any costs and expenses including costs for any prosecution or product recall. Apart from that the respective statutory provisions apply.
The orderer expects the supplier to maintain liability insurance with a sum of at least 3 m Euros insured, per event of damage for material damages and financial losses, flat, and for damage to persons, unlimited. Any further claims for compensation on the side of the orderer are not affected by this. The supplier gives proof of this insurance on the orderer's request.

9. Third party rights

The supplier takes over the full warranty that by delivery or using of the objects to be shipped no trade mark rights of third parties are violated or claims are made against us by third parties for any violation of right. In case of violation of third party rights we are entitled to be reimbursed for any damage occurred by the supplier without consideration of his wrongdoing.

10. Manufacturing inspections/ final inspections

- 10.1. We reserve the right to test for the quality of the used material, the exactness of measurements and quantities and any other quality features of the produced parts during the manufacturing process and prior to the delivery as well as to test for the compliance with any other provisions of the order at the supplier's and his sub-suppliers premises.
- 10.2. Do we consider a final inspection of the produced delivery item at the supplier's works by us and/or by any person appointed by us, we and the third person appointed by us have to be told the willingness for a final inspection in written form 14 days prior to the inspection if not agreed otherwise. Any objective costs for the manufacturing inspections and final inspections will be born by the supplier.
- 10.3. Have we appointed a third person to take over the final inspection of the delivery item, the supplier has to arrange for this final inspection free of charge for us and to communicate the test result to us immediately but latest with the delivery documents.
- 10.4. The manufacturing inspections and the final inspection do not release the supplier from his fulfillment and warranty obligations according to above stated clause 8.

11. Drawings/models/tools/norms/specifications

- 11.1. Any drawings, models, tools, manufacturing documents which we leave with the supplier for the manufacturing of the items to be shipped to us, must not be used for other purposes, copied or left with third parties. They shall remain our property and are to be returned to us immediately and unprompted after execution of the order. If the production documents are used unauthorized by the supplier or third parties, the supplier pays a contractual penalty in the amount of the sales price of the manufactured objects as agreed in the documents. We reserve the right to further compensation claims in this case. The supplier passes on this identical obligation to any subsupplier.
- 11.2. Any products manufactured by us according to documents designed by us or instructions given by us or with our tools and with any specially designed tools, must not be used by the supplier for his own purpose or offered or delivered to third parties.
- 11.3. Any tools lent to the supplier are taken good care of by the supplier and are stored in compliance with the respective provisions and shall be kept fit for use according to the latest drawing status. The tools shall be returned to us on request. The supplier insures the tools on his expenses against fire, theft and any other damages.
- 11.4. If the norms/specifications/drawings do not contain any release date/revision date, the latest edition applies. With your delivery we will receive for all products the MSDS filled in by you according to guideline 91/155/EWG in German language. After any modifications/amendments we receive the most current documents unrequested.

12. Passing of risk and ownership

The risk is passed to us after the goods have been shipped to our plant and have been transferred to our recipient in a proper way. Any simple or extended retention of title are not accepted by the orderer.

13. Execution of work

Any persons staying on the premises for the purpose of executing the order shall mind the regulations with regard to work and health protection and work safety. We will not hold responsible for any accidents happening to these persons on our premises unless they are caused by deliberate or grossly negligent breach of duty by our legal representatives or vicarious agents.

14. Issuing of invoices, payment, compensation

- 14.1. Invoices shall be submitted to us in duplicate and separately for each order and stating the order number.
Invoices are not to be considered order confirmations.
- 14.2. Payments will be settled according to the specific agreements. A delivery made prior to the agreed date does not affect the term of payment fixed for this date.
- 14.3. In alteration to the statutory provision default in payment requires the receipt of an overdue notice by the orderer.
- 14.4. The orderer is entitled to charge up with all claims against any claims which the contractor has against the orderer and which the BGH group is entitled to at the point of compensation against the contractor.

15. Court of jurisdiction and applicable law

- 15.1. Court of jurisdiction for deliveries and payments as well as for any other obligations agreed to in this contract is exclusively the location of the orderer's headquarters.
- 15.2. The legal relationship between the supplier and us is without exception defined by German Law excluding the UN Law on International Sales (CISG).

16. Severability clause

If a clause is declared null and void it does not effect the enforceability of other clauses.