

**General Terms and Conditions of Supply and Payment – DWK Drahtwerk Köln GmbH (edition Aug. 2023)****I. Scope of validity**

1. Our deliveries and services are provided exclusively on the basis of the terms and conditions below. They also apply to all future orders and contractual relationships between us and the Partner.  
The business terms and conditions of the partner, unless expressly recognised by us, have no validity.

**II. General provisions**

1. Full details of any verbal agreement will be immediately confirmed in writing by the contracting partners.
2. Orders will not be binding until they are confirmed by us.
3. Information and illustrations contained in brochures, catalogues as well as website are, in accordance with usual trade practice, regarded as approximations unless they have been expressly described by us as binding.
4. We are also entitled to refuse the Partner's delivery schedules and orders given based on the agreements as well as the fulfilment of existing agreements and individual agreements and the extension thereof, if it becomes evident that our payment claim would be at risk due to the lack of the Partner's performance. This is particularly the case if the Partner's creditworthiness is assessed by Euler Hermes with "high risk" (assessment grade 7) or worse, if and to the extent to which the sum insured made available to us by our commercial credit insurer to cover our claims against the Partner would be exceeded upon accepting the delivery schedule or the order or if our amount retained for a possible bad debt loss by the Partner is increased by our commercial credit insurer after concluding the agreement or individual agreement by more than 5 per cent points compared to the amount retained at the time of conclusion. The provisions in section VI. 4. and XI. 3. as well as § 321 of the German Civil Code (BGB) and other statutory rights to refuse performance and rights of retention remain unaffected.
5. If individual parts of these Terms of Sale are or become invalid, the validity of the remaining provisions is not affected thereby.

**III. Long-term and call contracts, price adjustment**

1. If any significant change occurs in the case of long-term contracts (contracts with a term of more than 12 months and unlimited contracts), in respect of wage, material or energy costs, each of the contracting partners is entitled to demand an appropriate adjustment of the price, taking these factors into consideration.
2. In the case of call supply contracts, unless otherwise agreed, binding quantities are to be notified to us by call not less than 6 weeks before the delivery date.
3. Additional costs caused by our Partner by a late release order or subsequent changes to the release order regarding time or quantity, must be borne by the Partner, unless the Partner is not responsible for the delay or the subsequent change; at the same time, our calculation is decisive.

**IV. Prices**

1. Our prices are in Euro, exclusive of turnover tax, packing, freight, carriage and insurance.

**V. Payment terms**

1. Unless otherwise agreed, all invoices are due for payment within 30 days of the invoice date.
2. Where we have indisputably supplied goods which are partly defective, our partner is nevertheless obliged to pay for the non-defective part, unless partial delivery is of no use to him. In other respects the partner may only set off payment against counterclaims which have been determined by final judgement or are not disputed. Furthermore, the Partner's right of retention or right to refuse performance only exists within these limitations.
3. If the payment terms are not met, we shall be entitled to bill interest on arrears at the rate charged to us by the bank for current account overdrafts, but at least the statutory default interest and the lump sum according to § 288 sec. 2, 5 of the German Civil Code (BGB).
4. In the event of any delay in payment we may, after giving notice in writing to the partner, suspend our obligations until payments have been received.
5. Bills of exchange and cheques will only be accepted where this has been agreed, and only on account of performance and on condition that they may be discounted. Discount charges will be calculated from the due date for payment of the invoice amount. A guarantee for presentation of bills of exchange and cheques at the due and proper time and for the lodging of a protest is excluded.
6. If our claim for payment became a risk due to circumstances appearing subsequent to the conclusion of contract which may be held as a significant deterioration of partner's economic situation we are entitled to demand and receive immediate payment.
7. If it becomes apparent after conclusion of the contract that our claim to payment is at risk owing to the partner's lack of adequate financial capacity, we shall be able to refuse performance and to set the partner a reasonable deadline within which he must make payment or provide security concurrently with delivery. If the partner refuses to do so or the deadline expires without result, we shall be entitled to withdraw from the contract and demand damages.
8. If the partner has credit claims against us, our credit claims against him will become payable at the same time as our debts become due and to the extent of the amount of these debts.  
In this case the respective values will be discounted for compensation. Compensation shall operate irrespective of different due dates of the claims or different legal grounds or different kinds of settlement (cash, bills of exchange, promissory notes, etc.).
9. There is a principle of not delivering goods without financial coverage. Insofar as possible and commensurate economically, we principally aim to collateralize our goods deliveries by taking out commercial credit insurance. If no or no adequate coverage by a commercial credit insurance is provided, we are entitled to sureties of the customary nature and scope for our claims, at our choice, even insofar as these are conditional or limited in time.

**VI. Delivery**

1. Unless otherwise agreed, we will deliver “ex-works”. Compliance with the delivery date or delivery period will be based on our notification of readiness for dispatch or collection.
2. The delivery period commences on dispatch of our order confirmation and will be extended as appropriate where the provisions of Article XIII.1 below apply.
3. Partial deliveries are permitted within reason. They will be invoiced separately.
4. Production-related over-deliveries or short deliveries are permitted within a tolerance of up to 10% of the total order quantity. Consequently, the total price is adjusted accordingly.

**VII. Dimensions, Weights, Quality**

1. Deviations in dimension, weight, quantities and quality shall be permissible within tolerances agreed upon, otherwise within the usual practice.
2. Weights are determined on our calibrated scales and are binding for invoicing. The measurement readings forming the base of our invoices originate from the recordings of our electronic data systems.
3. Wrappings are weighed together with the goods.

**VIII. Dispatch and transfer of risk**

1. In the event an Incoterm has been agreed, the respective current version of such Incoterm shall apply.
2. The shipping of the goods is carried out on account of the partner.
3. Goods which are notified as being ready for dispatch are to be taken over immediately by the partner. We are otherwise entitled, at our option, to dispatch them or to store them at the cost and risk of the partner.
4. In the absence of any special agreement, we will select the transport method and routing.
5. The risk is transferred to the partner on handover to the railway, forwarding agent or freight carrier, or on commencement of storage, but in any case not later than departure from the factory or warehouse; this also applies if we have undertaken delivery.
6. To the extent it is customary business practise, We will deliver the goods packed and protected against rust at the partner's expense. Costs incurred by the partner for a return transport or an own disposal of the packaging, protective equipment and transport aids will not be reimbursed.

**IX. Delay in delivery**

1. The delivery dates stated are non-binding, unless we explicitly confirmed them in writing or stipulated them as being binding, i.e. “binding delivery date”.
2. If we are able to anticipate that it will not be possible for the goods to be delivered within the delivery period, we will immediately inform the partner in writing of the reasons for this, and also if possible indicate the probable delivery date.
3. In the event of delivery being delayed by one of the circumstances as set forth in Article XIII.1 below, or as a result of any action or omission on the part of the partner, an extension of the delivery period will be granted appropriate to the circumstances.
4. The partner is only entitled to withdraw from the contract if we are responsible for the delivery date not being met and the partner has allowed us a reasonable period of grace without result.

**X. Reservation of title**

1. We reserve the right of ownership in respect of the goods supplied until such time as all claims under the business relationship with the partner have been met.
2. The partner is entitled to sell these goods in the regular course of business, provided he meets his obligations arising from the business relationship with us in good time. However, he may neither pledge the reserved goods nor transfer ownership of them as security. He is obliged to protect our rights if goods which are subject to reservation of title are resold on credit.
3. In the event of breaches of his duties by the partner, in particular in the case of delayed payment, we shall be entitled, after a reasonable period of grace allowed to the partner for performance has elapsed without result, to withdraw from the individual contract and take back the goods; this shall not affect the statutory provisions concerning cases where it is not necessary to allow a period of grace. The partner shall be obliged to surrender the goods.  
We shall be entitled to withdraw from the contract if an application is filed for insolvency proceedings to be instituted against the partner's assets.
4. With immediate effect the partner assigns to us as security all claims and rights deriving from the sale or any hiring, for which we may have given the partner permission, of goods over which we have rights of ownership. We hereby accept the assignment.
5. Any working or processing of the goods which are subject to reservation of title shall at all times be carried out by the partner on our behalf. If the goods which are subject to reservation of title are processed or inseparably mixed with other items not owned by us, we shall acquire joint ownership of the new product in the proportion of the invoice value of the goods which are subject to reservation of title to the other processed or mixed items at the time of processing or mixing. If our products are combined or inseparably mixed with other moveable items to form a single product and the other product is deemed to be the principal product, the partner shall transfer joint ownership to us on a pro rata basis, as far as the principal product is owned by it. The partner shall maintain ownership or joint ownership on our behalf. In all other respects the same shall apply to the product created by processing or combination or mixing as to the goods which are subject to reservation of title.
6. The partner must inform us immediately of enforcement measures being taken by third parties in respect of the reserved goods by handing over to us the documents required for any intervention. This also applies to infringements of any other kind.
7. If the value of the existing securities exceeds the secured claims in total by more than 20 per cent, we undertake, at the partner's request, to release securities of our choice in this respect.

**XI. Material defects**

1. The quality of the goods is determined exclusively by the agreed technical supply specifications. In the event of our having to supply in accordance with drawings, specifications, samples and the like provided by our partner, the latter will take over the risk of fitness for the intended use. The condition of the goods in accordance with the contract is determined as at the time of transfer of risk in accordance with Article VIII.5 above.
2. We adhere to the respectively effective legal requirements of the European Union (EU) and the Federal Republic of Germany when delivering our goods. For instance, this applies to – so far as relevant – the REACH Regulation (Regulation EC no. 1907/2006), the German Electrical and Electronic Equipment Act (ElektroG), the German Ordinance on Hazardous Substances in Electrical and Electronic Equipment (ElektroStoffV) and the German End-of-Life Vehicle Ordinance (AltfahrzeugV) as the German implementation of the EU Directives 2011/65/EU (RoHS 2), 2012/19/EU (WEEE Directive) as well as the EU Directive 2000/53/EC
3. Any material defects in respect of any defect deriving from unsuitable or improper use, defective assembly or operation by the partner or third parties, normal wear and tear, defective or negligent handling, will also be excluded as the consequences of unsuitable modifications or repairs undertaken by the partner or third parties without our approval. The same shall apply to defects which only reduce the value of the goods or their fitness for their intended use to an insignificant extent.
4. Claims for material defects shall become statute-barred after 12 months. This shall not apply where the law prescribes longer periods of time as mandatory, particularly for defects in a building and in a product which has been used in accordance with its customary form of use for a building and has caused the latter to be defective. Sentence 1 also does not apply for damages resulting from fatal, physical or health injuries and for intent or gross negligence or any other kind of breach of essential contractual obligations (those are obligations, which must be fulfilled for proper execution of the agreement and which can typically be expected to be fulfilled by the contracting parties) by our legal representatives or executive employees and for a possible obligation to compensate for expenses for the purpose of supplementary performance according to § 439 sec. 3 of the German Civil Code (BGB).
5. The Partner's warranty rights require that the Partner properly fulfilled its duty of inspection and objection pursuant to § 377 of the German Commercial Code (HGB). Where it is agreed that the goods are to be accepted after completion or that initial samples are to be tested, notification of defects which could have been discovered by the partner under careful acceptance or testing of initial samples is excluded.
6. We must be given the opportunity of assessing the notified defect. The goods complained of must be returned to us immediately; we will take over the transport costs where the notice of defect is justified. In the event of the partner failing to observe these obligations, or carrying out modifications of the goods which are complained of without our consent, he will lose any claims for material defects.
7. In the event of notice of defect which is justified and made at the due and proper time, we will, at our choice, make improvements to the goods complained of or supply a replacement free of defect.
8. In the event of our failing to meet these obligations, or failing to do so within a reasonable time in accordance with the terms of the contract, the partner may set in writing a final deadline within which we must fulfil our obligations. In the event of this period expiring without result, the partner may demand reduction of the price, withdraw from the contract or himself carry out, or have the necessary subsequent improvement carried out by a third party at our cost and risk. There shall be no reimbursement of costs if the expenses increase because the goods have been brought to another place after delivery by us, unless this means that the goods are being used as they were intended to be.
9. The partner has statutory rights of recourse against us only in so far as the partner has not reached any agreements with his customer which go beyond the statutory claims for defects. In addition, Article XI.7, last sentence, applies accordingly to the scope of the rights or recourse.
10. The purchase of goods sold as seconds, such as II-a-material, do not entitle the partner to any claims as to possible defects.

**XII. Other claims, liability**

1. Unless otherwise specified below, any additional or more extensive claims by the partner against us are excluded. This shall apply in particular to claims for damages for a breach of duties arising from the obligation or from unlawful acts. We are therefore not liable for any damage not deriving from the delivered goods themselves. We are in particular not liable for any loss of profit or financial losses by the partner.
2. The limitations of liability indicated above do not apply in the case of specific intent, gross negligence on the part of our legal representatives or senior employees, and in the event of culpable violation of significant contractual obligations. In the event of culpable violation of significant contractual obligations we are liable – other than in cases of specific intent or gross negligence on the part of our legal representatives or senior employees – only for standard contractual loss, or loss which might reasonably have been expected.
3. The limitation of liability is also not applicable in those cases where there is liability in accordance with product liability laws in the case of defects in goods supplied for private use. It is also not applicable in case of injury of life, body or health and in the absence of guaranteed characteristics, if, and insofar as the object of the guarantee was to cover the partner against any losses not deriving from the goods supplied themselves. Finally the liability limitation does not apply if we concluded a sales agreement with the Partner and we are obligated to compensate for the expenses required for the purpose of supplementary performance as per § 439 sec. 3 of the German Civil Code (BGB).
4. Insofar as our liability is excluded or limited, this is also applicable to the personal liability of our employees, workers, personnel, legal representatives and vicarious agents.
5. The legal provisions relating to burden of proof are not affected by this.

**XIII. Force majeure**

1. The term "Force Majeure" means all circumstances which (i) are beyond the control of the relying party, (ii) could not reasonably have been foreseen at the time of the conclusion of the contract and (iii) make it impossible or substantially difficult for the relying party to perform any obligation under this contractor (iv) the intended procurement or sale, processing or other use of the contractual products and/or services as well as the raw materials, semi-finished products, intermediate goods or workpieces. Reasons for force majeure maybe, without being limited to: a. natural catastrophes such as earthquakes, fires, floods, (particularly contagious) illnesses, as well as the releasing of radiation, biological or chemical substances; b. war, civil war, terrorism, armed conflicts, unrest, demonstrations, strikes and lockouts; c. economic, trade or financial sanctions, embargos, import or export prohibitions, authorisation requirements, punitive tariffs, quotas, other restrictions of the movement of goods or services or of payment transactions, and measures comparable in terms of their purpose or effect (hereinafter collectively referred to as "Economic Sanctions") by a jurisdiction worldwide (state, union of states, other territorial entity, supranational organisation). The existence of an Economic Sanction shall not cease because the jurisdiction affected by it reacts with an economic sanction, particularly a counter-sanction. Rather, in such case a breach is to be examined in isolation for every Economic Sanction in each instance.
2. The buyer hereby warrants that, taking into consideration the parties, their economic beneficiaries, the contract subject and all of the other circumstances (particularly end buyers), after careful examination at the time of entry into this Contract, no Economic Sanction exists, has been announced or has been raised as a prospect, which would be breached through entry into or performance of this Contract in whole or in part. The buyer shall also continuously monitor the situation with regard to Economic Sanctions being announced or raised as a prospect after entry into this Contract, and notify us of the same without undue delay.
3. If an instance of force majeure arises, the affected party shall notify the other party thereof without undue delay stating the reasons. The affected party shall be entitled during the period of the force majeure to refuse to render the pertinent performance and in such case the buyer shall be entitled to refuse to render the consideration incumbent upon it in the same scope. No party shall have claims due to the delay or the non-fulfilment of performance which is attributable to force majeure.
4. The provisions of (3) above shall also apply until final clarification in the event that we presume in good faith the existence of force majeure but its existence is in dispute between the parties.
5. If the force majeure lasts for a period of more than 90 days after receipt of the notification pursuant to the first sentence of (3) above, then each of the parties shall be entitled to terminate the Contract. If the force majeure only continues to exist because one party refuses to fulfil its obligations in the framework of (6) and (7) below, then only the other party shall be entitled to declare the termination of the contract.
6. The parties shall work together in the framework of what is reasonable, if and insofar as this is possible, in order to eliminate force majeure, for example by filing applications for exemption from an Economic Sanction. Upon our request, the buyer shall provide all of the relevant information and documents in this respect, particularly pertaining to the destination, the end buyer and intended use of the contract products or services, as well as pertaining to its own organisation, that of the end buyer and its respective economic beneficiaries.
7. In the event that the occurrence or continued existence of force majeure as a consequence of an Economic Sanction can be prevented or eliminated by a change to the provisions of this Contract, the buyer hereby undertakes to agree to such changes, unless these result in an unreasonable disadvantage which cannot be rectified even by rendering a security or other equalisation measures. Potential contract amendments can pertain in particular to: a. changing delivery dates, deleting or reducing delivery periods or deadlines; b. transferring ownership and taking possession of goods; or c. the provisional or final waiver of performance-refusal rights, particularly with regard to payments.

**XIV. Place of performance, place of jurisdiction and applicable law**

1. Unless otherwise indicated in the order confirmation, the place of performance is our principal place of business.
2. The place of jurisdiction for all legal disputes, including any action relating to payment of bills of exchange or cheques, is our principal place of business. We are also entitled to bring an action at the place of business of the partner.
3. The contractual relationship is exclusively subject to the laws of the Federal Republic of Germany. Application of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG - "Vienna Sales Convention") is excluded.

***We refer to our code of ethics and our whistleblower system.***

***<https://www.stahl-holding-saar.de/shs/en/holding/compliance/index.shtml>***