

General Terms of Sale of Bienefeld GmbH & Co. KG with its seat in Werdohl

1. General

- 1.1 Our terms of sale hold good in an exclusive manner; we do not recognize general terms of business of the orderer which conflict with or differ from our terms of sale, unless we have explicitly agreed to their holding good in writing. Our terms of sale also hold good should we carry out deliveries without reservation although we are aware of terms of the orderer which conflict with or differ from our terms of sale.
- 1.2 Our terms of sale hold good only vis à vis companies in the sense of § 14 of the German Civil Code when the contract belongs to the operation of the company in question as well as vis à vis legal persons under public law and special assets under public law in the sense of § 310 Para. 1 of the German Civil Code.
- 1.3 Our terms of sale also hold good for all future transactions with the orderer.
- 1.4 If we undertake in addition mounting/installation work, then for this work the special terms for mounting/installation work hold good to this extent.

2. Offers and offer documents

- 2.1 Our offer is non-binding up to the time of the final confirmation of order.
- 2.2 The order of the orderer is a binding offer. We are entitled to accept this offer within two weeks by sending a confirmation of order or by sending the goods ordered to the orderer within this same period.
- 2.3 The technical data in our catalogues, lists and drawings (including statements of weight and dimensions) have been carefully prepared, errors excepted. The same holds good for all data in our sales documents. However such statements do not represent a guarantee promise; guarantee promises require in each case an explicit confirmation by ourselves.
- 2.4 We reserve the right to make changes which serve technical progress and also to do this after a confirmation of order.

3. Prices and terms of payment

- 3.1 In so far as something different does not result from the confirmation of order, our prices are to be understood as ex works including loading in our works but excluding packing, freight, transfer, insurance, customs duties, mounting/installation work and the particular valid value-added tax.
- 3.2 For belts which are supplied with pretension, the geometric operating length holds good as the basis for invoicing.
- 3.3 We reserve the right to increase our prices on the expiration of 4 months from the time of the conclusion of the contract in an appropriate manner when cost increases - and here in particular ones coming about as a result of collective bargaining agreements or price increases for materials - come about. On request we will demonstrate to the orderer these cost increases.
- 3.4 In so far as something different does not result from the confirmation of order, the purchase price is due for payment immediately without any deduction. The deducting of discount requires a special agreement in writing.
- 3.5 In so far as no variant payment objectives have been agreed, default comes about 30 days after presentation of invoice. Default interest will be charged with 8 percentage points per annum above the base interest rate whereby the claiming of further damages is thereby not excluded. We are not obliged to make any further delivery from any current contract with the orderer prior to payment of invoice amounts which are due including default interest.

- 3.6 Bills of exchange and cheques will only be accepted following special agreement and only on account of payment; the orderer shall bear the costs of discounting and collection. Following acceptance of a bill of exchange we are entitled to give it back if its acceptance is refused by the state central bank.
- 3.7 The orderer is only entitled to offsetting rights when his counter-claims have been legally established, are not in dispute or have been recognized by ourselves. In addition the orderer is entitled to exercise a right of retention only to the extent that his counter-claim relates to the same contractual relationship. The orderer is not entitled to a right of retention on the grounds of part performances in accordance with § 320 Para. 2 of the German Civil Code.
- 3.8 If, having accepted an order, facts become known to us that permit there to be justified doubt about the orderer's ability to make payments, then we are entitled to demand full payment or an appropriate security prior to the delivery or, as the case may be, to withdraw from the contract after a period of grace has been set and has expired. In addition to a default in payment, holding good as evidence of an important deterioration in assets is information prepared with the care of an orderly businessman issued by a bank, a credit agency, a company standing in a business relationship with the orderer or a similar entity. If in such a situation the delivery has already been carried out, the invoice amounts coming into question become immediately due for payment regardless of the terms of payment that have been agreed.

4. Delivery time and delivery delay

- 4.1 Delivery times are to be understood as non-binding statements in so far as something different has not been explicitly agreed.
- 4.2 Delivery periods commence with the date of the confirmation of order but however not before the orderer has fulfilled his obligations on time and properly, i.e. in particular in respect of the handing over of the necessary documents, approvals and releases as well as not before receipt of an agreed payment in advance.
- 4.3 The delivery period has been maintained when the delivery object has left the works or the delivering-out warehouse or delivery readiness has been notified in each case by up to the end of the period. The above does not hold good if acceptance of the object is required by the contract or if a mounting/installation obligation has been agreed.
- 4.4 In cases of force majeure or other unforeseeable, unusual circumstances for which we are not to blame, e.g. operational disruptions, strikes, lock-outs, official actions, energy supply difficulties and delayed or incorrect delivery of raw materials, semi-finished or finished products needed for the manufacturing of the delivery object, then the delivery time will be extended by the period of the hindering circumstance plus a reasonable start-up time in so far as the hindering circumstance prevents us from fulfilling our obligation on time. The orderer will be notified by us of the beginning and end of such circumstances as soon as possible in important cases. If the afore-mentioned circumstances make the delivery or service impossible or unreasonable, then we are freed from our delivery obligation. The orderer cannot derive any right to advance claims for damages on the basis of the delivery time being extended or if we are freed from our delivery obligation. Should we be freed from our delivery obligation, then we warrant that we will make good any performance made by orderer in advance.
- 4.5 The legal right of the orderer to withdraw remains unaffected but requires that we are responsible for the delay. The orderer is obliged on our so requesting to declare within a reasonable period whether he - on the expiration of a set period and by reason of the delay in delivery - wishes to withdraw from the contract and/or to claim damages instead of the performance or, as the case may be, to receive reimbursement of expenditure or whether he wishes to receive the delivery.
- 4.6 If dispatching is delayed on the request of the orderer, then we will charge him with the costs arising from the storage, the charging commencing 1 month after notification of the delivery readiness. However we are entitled - following the setting and expiration of a reasonable period and following appropriate notification in advance - to dispose of the delivery object in another way and to deliver the orderer within a reasonably extended delivery period.

5. Delivery, transfer of risk and dispatching
 - 5.1 Part deliveries are permissible up to a reasonable extent.
 - 5.2 The risk passes to the orderer with the handing over of the goods to the forwarding agent or shipper but in any case at the latest when the goods leave the works or the dispatching warehouse. The same also holds good when freight-paid delivery is agreed. Dispatching is carried out on the instructions of the orderer.
 - 5.3 If dispatching is delayed as a result of circumstances for which the orderer is responsible, the risk passes to the orderer on the day of the readiness for delivery. However we are obliged to insure the goods on the orderer requesting this and at orderer's cost.
 - 5.4 On the orderer requesting this, the shipment will be insured at the orderer's cost against theft and breakage, transport and fire damage as well as against other risks which can be insured against whereby the time of the transfer of risk in accordance with section 5.2 remains unaffected.
6. Retention of title
 - 6.1 We retain title to the goods as delivered up to the time of receipt of all payments from the business transaction with the orderer. We are entitled to take the goods back if the orderer acts in a manner contrary to the contract and in particular if the orderer is in default with payments. The taking back of the goods or, as the case may be, the advancing of retention of title does not require that we withdraw from the contract. Such actions or the seizure of the goods as delivered do not represent withdrawal by ourselves from the contract, unless we have explicitly declared this in writing. We are empowered to take back the goods as delivered and to exploit them. The revenue from exploitation less the reasonable costs therefor will be set against the liabilities of the orderer.
 - 6.2 The orderer is obliged to treat the goods as delivered in a careful manner and - on our so requesting - to adequately insure the goods against damage for the duration of the retention of title period. The orderer assigns claims against the insurer to us here and now.
 - 6.3 The orderer has to inform us without delay in writing in the case of seizures or other actions by third parties so that we can take legal action in accordance with § 771 of the German Civil Process Order. Should the third party not be in a position to reimburse us with the court and out-of-court costs of a suit in accordance with § 771 of the German Civil Process Order, then the orderer is liable vis à vis ourselves for the loss we suffer.
 - 6.4 The orderer is entitled to sell on the goods delivered to him in an orderly business transaction whereby he assigns to us already now all his claims in the amount of the final invoice amount (including value-added tax), which arise for him from the resale to his customer or third party; this obligation holds good regardless of whether the goods as delivered were sold on without or with further processing/conversion. The orderer remains entitled to collect these claims and to do this also following the afore-mentioned assignment; our empowerment to collect the claim ourselves remains unaffected thereby. However we undertake not to collect the claim ourselves as long as the orderer has met his payment obligations from the proceeds collected, is not in default with his payment obligations and in particular as long as no applications have been made for the opening of an insolvency process against the orderer or a situation of cessation of payments by the orderer exists. Should our obligation not to collect ourselves not exist, then we may demand that the orderer makes known to us the assigned claims and the related debtors, makes known to us all the details necessary for collection, hands over the related documents and informs the debtors of the assignment
 - 6.5 We undertake to release the securities due to us on the orderer so requesting in so far as the realizable value of our securities exceeds the claims to be secured by more than 10 %; selection of the securities to be released is at our discretion.
 - 6.6 In so far as the law, in the area of jurisdiction of which the goods are, does not permit retention of title, then the seller may exercise all rights which he can reserve in respect of the goods.

The buyer is obliged to co-operate in measures of the seller, which measures the latter wishes to take to protect his retention of title rights or at the place of another law on security.

7. Material defects and defects of title

7.1 We carry out the deliveries as promised in accordance with the state of the art at the time of our being commissioned as well as in accordance with the relevant legal prescriptions and under observation of the care usual in the sector.

7.2 In so far as our delivery shows a material defect or defect of title (hereafter: defect) within the period of limitation and in so far as the cause of the defect existed as early as the time of the transfer of risk, the orderer may claim rectification of the defect or replacement, whereby we may decide which. We will bear the expenditure necessary, e.g. labour, material, transport and travel costs, but only in so far as this expenditure is not increased by reason of the fact that a delivery object was brought retrospectively to a place other than the seat of the orderer, unless this change of location came about in the course of the use of the delivery object in the manner for which it is intended. Parts which are replaced become our property and are to be given back to us.

7.3 If the rectification is unsuccessful, the orderer is entitled either to reduce our remuneration or - in so far as the infringement of our obligations is of importance - to withdraw from the contract - whereby the choice is his and whereby his rights to advance claims for damages and the making good of expenditure in accordance with section 8 remain unaffected.

7.4 Precondition for our liability for defects is that:

a) None of the following circumstances exist: dimensional variations and manufacturing tolerances within specifications on data sheets, prospectuses and Internet publications, customary manifestations of ageing or wear which are proven in particular from the particular technical data sheets, unsuitable or unprofessional use, faulty or careless mounting/installation work, unsuitable operating resources, replacement materials, defective construction work, chemical, electro-chemical or electrical factors of influence.

b) The orderer has met his legally required investigation and complaint-raising obligations in a proper manner. In this connection a defect is to be complained about in writing and substantiated in detail within 10 days of the arrival of the delivery object at the specified place of delivery or - in so far as the defect was not detectable then during an orderly inspection - within 10 days of it having been discovered.

c) The orderer - when account is taken of a reasonable warranty holdback - is not in default in respect of payment in accordance with section 7.8.

7.5 The orderer has - following agreement with ourselves - to give us the necessary time and opportunity to carry out all the improvements and replacement deliveries which we in accordance with our reasonable estimation consider necessary. Otherwise we are exempted from consequent damage which comes about because the orderer did not give us the necessary time and opportunity to carry out the necessary defect elimination measures or, as the case may be, replacement deliveries.

7.6 Claims of defects become time barred in 12 months. This limit does not hold good in so far as the claims are based on deliberate behaviour attributable to ourselves so that the law mandatorily prescribes longer periods in accordance with §§ 438 Para. 1 No. 2 (things for structures), 479 Para. 1 (recourse claims) and 634 a Para. 1 No. 2 (construction defects) of the German Civil Code. For replacement pieces or, as the case may be, improvements/repairs we are liable up to the expiration of the limitation period holding good for the original delivery object.

7.7 Recourse claims of the orderer against ourselves may be advanced only to the extent that the orderer has not reached any agreements with his customer that go beyond the legally permissible claims of defects. Section 7.2, Sentence 2 holds good as appropriate for the extent of the recourse claim. If claims are advanced against the orderer based on a defect of the newly manufactured delivery object, then the orderer is obliged to inform us of these

without delay. The orderer has to appropriately oblige his customers in so far as these are enterprises. We reserve the right to fulfil the claims advanced by the orderer's customer against the orderer by independently assuming the role of principal. In such a case fulfilment of the claims of the orderer's customer counts as fulfilment of any claims of the orderer against ourselves.

- 7.8 In the case of complaints of defects, the orderer may hold back payments to an extent that has a reasonable relationship to the material defects that have arisen. If the complaints of defects are found to have been made falsely, then we are entitled to demand that the orderer makes good for us the expenditure that arose for ourselves.
8. Claims for damages and claims for making good of expenditure
- 8.1 We are liable in accordance with the legal prescriptions in so far as the orderer advances claims for damages and claims for making good of expenditure (hereafter: claims for damages), which claims are based on deliberate intent or gross negligence - including the deliberate intent or gross negligence of our representatives or vicarious agents. In addition we are liable in accordance with the legal prescriptions in so far as we have infringed an important contractual obligation in a culpable manner as well as in cases of mortal injury, physical injury or damage to health and to the extent that we have undertaken guarantees.
- 8.2 The damages for the infringement of an important contractual obligation are limited to the foreseeable, typically occurring damage/loss; this limitation does not exist in so far as there was deliberate intent or gross negligence and in so far as we are liable for guarantees we have undertaken for cases of mortal injury, physical injury or damage to health. These claims for damages become time-barred in 12 months.
- 8.3 Apart from the above, the liability for damages is - regardless of the legal nature of the claim advanced - excluded.; to this extent we are in particular not liable for damage/loss that does not result on the delivery object itself, such as, for example, loss of production, losses of utilization and loss of profit.
- 8.4 The mandatory prescriptions of the product liability law remain unaffected.
- 8.5 Claims advanced by the orderer for the making good of expenditure are limited to the amount of the interest which this had on the fulfilment of the contract.
- 8.6 Where and to the extent that our liability is excluded or restricted, then this also holds good for the personal liability of our staff, employees, workers, representatives and vicarious agents.
9. Technical application notes
- 9.1 Our instructions on use represent solely general guide-lines. By reason of the multifariousness of the different possible purposes of use of an individual product and by reason of the particular special circumstances that may arise it is a matter for the orderer to carry out his own tests.
- 9.2 In the case of our supporting the orderer in application-related matters, the orderer bears the risk for the success of his work; any claims of the orderer in accordance with section 8 remain unaffected.
10. Place of performance, venue and applicable law
- 10.1 Place of performance for the delivery is the manufacturing works or, as the case may be, our dispatching warehouse. Place of performance for the payment is our seat of business.
- 10.2 Venue is our seat of business. However we are entitled to take action against the orderer at another legal venue.

- 10.3 The contract is subject to the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG). Where and to the extent that the CISG does not contain a rule, then German law holds good whereby application of international private law is excluded.
- 10.4 Should individual prescriptions of these general terms of sale or other contractual agreements be or become as a whole or in part ineffective, then this shall not affect the effectiveness of the other provisions.