

General Sales Terms and Conditions of Becker Industrielack GmbH

1. General provisions

- 1.1 Our following terms and conditions of supply and payment are intended for application only with regard to companies, legal entities under public law or special funds under public law as referred to in § 310 (1) German Civil Code [Bürgerliches Gesetzbuch, BGB]. They do not apply with regard to consumers.
- 1.2 For all – including future – agreements with our business partners – hereinafter referred to as Purchaser – our General Sales Terms and Conditions shall apply exclusively. Our Purchaser's contrary terms and conditions will not be recognised.
- 1.3 Incidental agreements, reservations, changes or amendments to this contract shall be valid only with our written confirmation.
- 1.4 Place of performance for the payment of the remuneration of our services as well as for all of the Purchaser's other obligations shall be Dormagen; for our services, the place of performance shall be the place where the goods are located for the purpose of the shipment or any agreed surrender to the Purchaser, unless a different place of performance necessarily results from the nature of the transaction.
- 1.5 For purchasers who are registered merchants [Vollkaufman] or legal entities under public law or responsible institution of a special fund under public law, Düsseldorf is hereby agreed as the legal venue.
- 1.6 We are entitled to pass on data of the goods and payment transaction with the Purchaser to third parties.
- 1.7 Our offers are without engagement, unless expressly agreed otherwise.
- 1.8 Processing information that we indicate in our product information must be observed.

2. Documents and Samples

- 2.1 The details in general descriptions, prospectuses, etc. must be considered to be only approximations. Under no circumstances shall they be considered as a commitment that our product will also be suitable for the intended purpose in the particular case.
- 2.2 Sales according to samples warrant a professionally tested consistency.

3. Shipment and Insurance

The calculation shall be determined by the weights established in our works. Each transport shall be done at the Purchaser's risk, also in the case of freight-paid delivery. We bear no responsibility for transport difficulties of any kind. Insurance against damage of any kind, delays in delivery, etc. shall be carried out only at the Purchaser's express request, subject to charging for the advanced amounts.

4. Delivery Dates, Excess, Short and Partial Deliveries

- 4.1 We shall deliver on the agreed date.
- 4.2 Should we not deliver in good time for reasons of force majeure or other unforeseeable occurrences, which also include operational disruptions, difficulties in the procurement of raw material or energy, irregularities in the unloading of the raw materials, obstruction of workers, strike, lockout, official measures or other disruptions in the production, we shall inform the Purchaser about the expected duration of the impediment to delivery as soon as its occurrence is established. The delivery date then shall be postponed by the duration of the impediment to delivery, in which, where applicable, an appropriate period for the commencement of the production shall be included in the calculation.
If it is foreseeable that the impediment to delivery is not merely of a temporary nature, we are entitled to disengage ourselves from our performance obligation. The Purchaser shall only have claims for compensation if the cause of the impediment to delivery through intent or gross negligence, also by our vicarious agents, has been established.
- 4.3 Claims for a delay in delivery owed by us or for non-fulfilment shall be limited in terms of their amount and indeed in the event of default to the value of the goods and in the event of non-fulfilment to the amount that the Purchaser additionally has to spend in order to obtain equivalent goods in the same quantity from a third party; unless the Purchaser has clearly pointed out in writing before the conclusion of the contract that a particularly substantial damage would be imminent in the event of late or unsuccessful delivery.
- 4.4 If the acceptance of partial deliveries within a period of a certain period is agreed, a more-or-less equivalent distribution of the delivery is considered to be stipulated.
- 4.5 We reserve the right to deliver excess or short deliveries of 10% of the ordered quantities for manufacturing reasons.

5. Place of Delivery, Freight

- 5.1 We deliver in principle ex works. Upon collection, the Purchaser must collect the goods on the agreed delivery date or, if no delivery date was agreed, without undue delay after notification that the goods have been made available, at the place of performance. The place of performance

under the business relationship or under the individual contract shall be our respective shipment office. If the Purchaser defaults in the acceptance of the goods, we are entitled to ship them, at our own choice, at the Purchaser's expense or – if not possible otherwise, where necessary, also store them in the open air. We are not liable in this case for the accidental deterioration, loss or damage of the goods. If the goods are stored by us, we are entitled to bill for the goods after the expiry of one week after the start of the default in acceptance and request payment.

- 5.2 In principle the transport shall be done at the Purchaser's expense; the choice of the means of transport as well as the transport route shall be at our discretion, unless the Purchaser has issued to us special instructions in this regard. The risk shall be transferred to the Purchaser at the time at which the goods are handed over to the freight forwarder.
- 5.3 Should we deliver freight-paid, increases in freight tariffs that occur after the day of the submission of our offer shall be borne by the Purchaser, as shall additional costs for transport as express or urgent freight requested by the Purchaser.

6. Prices

- 6.1 Our prices are quoted net, i.e. plus the legal turnover tax applicable on the day of the delivery.
- 6.2 If more than 30 calendar days lie between the day of the submission of the offer and the date on which we deliver, excluding delays in delivery due to our fault, we are entitled to increase the contractual prices to the extent that is calculated without any change in the calculation on account of the raw materials being used by us for the manufacture becoming more expensive since the day of the submission of our offer.
- 6.3 For the billing, the weights, item numbers and quantities shall be authoritative, unless the Purchaser objects to these without undue delay after the delivery.

7. Payment, Retention, Set-Off

- 7.1 The payment must be made within 30 days after the billing date. Upon payment within 10 days of the billing date, we grant an early payment discount of 2% on the outright value of the goods. The payment is considered to be made in good time if it is made on the day on which the amount is available in our accounts.
- 7.2 Discounts are not permitted as long as older, due bills have not been settled in full.
- 7.3 Bills of exchange shall only be accepted based on a separate written agreement and just like a cheque shall only be accepted as payment. All costs through collection shall be borne by the Purchaser. We are not liable for timely or orderly submission, protesting, notification or any refusal.
- 7.4 If we remain on risk for longer than 10 days from the billing date (e.g. in the case of bills of exchange), any grant of an early payment discount shall cease to apply.
- 7.5 If the Purchaser defaults in payment, we are entitled to make outstanding deliveries only against advance payment or the provision of security; all suspension, prolongation, instalment payments or other financing arrangements as well as all discounts and special advantages shall cease to apply for the period of the default. The provisions of this paragraph shall also apply if we become aware of circumstances that are likely to reduce the Purchaser's creditworthiness. Documentary evidence of such occurrences shall be considered primarily to be furnished by information from a reputable credit agency or bank, without the submission of the information being able to be requested by the Purchaser. The same consequences shall take effect if one of the Purchaser's bills of exchange is protested, compulsory execution against it has expired without success or insolvency proceedings have been applied for.
- 7.6 The retention of payments – the same applies to the Purchaser's services of any kind – is excluded, unless the Purchaser has asserted rights under the same contractual relationship in accordance with these sales terms and conditions. The set-off against counterclaims is only permitted if these are undisputed or determined without further legal recourse.
- 7.7 The non-payment of due bills or other circumstances which appear to indicate a significant deterioration of the Purchaser's financial circumstances after the conclusion of the contract entitle us to call all of our claims due immediately.

8. Warranty, Notices of Defects and Liability

- 8.1 In principle, we assume warranty for the duration of 6 months, calculated from the date of the transfer of the risk.
- 8.2 The Purchaser must inspect the goods for defects without undue delay following their receipt, § 377 German Commercial Code [Handelsgesetzbuch, HGB].

Obvious defects must be notified without undue delay following receipt, in any case before use or commingling of the goods. If the defect is a defect that was objectively not recognisable upon inspection, this defect likewise must be notified as soon as it is detected. The notice must be

given in writing and must describe the nature and extent of the defect sufficiently.

- 8.3 In the case of defective goods, we have the choice of remedy of defects or substitute delivery. Should the remedy of defects be unsuccessful or the substitute delivery be defective, the Purchaser, according to its choice, is entitled to request the reversal of the underlying transaction of the contract or a corresponding reduction of the purchase price.
- 8.4 If we are entitled to remedy defects, we shall bear all required expenditures for this purpose, unless these are increased or decreased through the objects of sale being brought to a different place than the place of performance.
- Subject to the provisions set out in 8.10 below, any compensation of direct or indirect damage is expressly excluded.
- 8.5 Based on existing experience, to the best of our knowledge, general application recommendations regarding the Purchaser's/Processor's support are given in accordance with the current level of knowledge in science and practice; concerning the crucial significance of processing and application in the particular case, general recommendations are non-binding and shall not establish any contractual legal relationship or secondary obligation under the sales contract. They shall not release the Purchaser from the obligation to check our products for their suitability for the anticipated intended purpose under its own responsibility by itself. If we have undertaken such a check on behalf of the Purchaser in an individual case, recommendations resulting from this shall only be binding if and as long as the Purchaser observes our recommendations and processing instructions under the same conditions, in particular regarding the admixture of certain components as well as the chemical composition of the material to which our products are to be applied.
- 8.6 In the case of the contractor's recourse (§ 445 a BGB), it is presumed that no defects existed at the time of the transfer of the risk to the Purchaser if the Purchaser dutifully inspects in accordance with item 8.2 above but has not notified any defects, unless this presumption is not compatible with the nature of the item of the defect.
- 8.7 If the Purchaser asserts rights of recourse, the Purchaser must treat us in such a way as though it has implemented all legally permitted contract law possibilities with regard to its contractual partners (e. g. refusal of the supplementary performance owing to disproportionality or restriction of the reimbursement of expenditure to an appropriate amount).
- 8.8 We are entitled to reject the Purchaser's rights of recourse with the exception of the claims for the delivery of new goods, if we grant the Purchaser equivalent compensation for the exclusion of its rights. We are only liable for the compensation of the defect if we are (jointly) responsible through intentional or grossly negligent conduct.
- 8.9 Unless agreed otherwise, all of the Purchaser's further compensation claims against us and our salaried staff, employees, representatives and vicarious agents shall be excluded, in particular a claim for compensation for damage that has not arisen to the supplied goods themselves.
- 8.10 The foregoing agreed limitations and exclusions of liability shall not apply if liability by us is a mandatory requirement in cases of intent, gross negligence, injury to life, limb and health or as a result of a guarantee of quality or service life or in accordance with the regulations, in particular of the German Product Liability Act [*Produkthaftungsgesetz*]. The same shall apply in the case of the absence of a warranted quality, which jeopardises the achievement of the purpose of the contract, whereby our liability shall however be limited to the compensation of typically foreseeable damage.
- 9. Retention of Title**
- 9.1 We retain title to all delivered goods until the fulfilment of all payment obligations, also from future deliveries. The Purchaser may sell, mix or process the goods in the course of its regular, customary business operation.
- The retention of title shall then extend in the proportion of the invoice value of our goods to the invoice value of the new product to the new product. The mixing and/or processing shall be considered as having been done for us, without our incurring any liabilities from this. If the co-ownership of the new product is not transferred directly to us, the Purchaser already today hereby assigns the corresponding co-ownership share to us. It shall also keep the item due to this co-ownership share, which is considered to be goods subject to retention of title, safely for us.
- The retention of title shall also continue to exist if some of our claims are booked on a current account and the balance is drawn and recognised. Purchase price claims shall apply despite payment as long as they are not extinguished, if a liability assumed under a bill of exchange in this connection – such as, for example, in connection with a cheque-bill of exchange process – continues to exist.
- 9.2 In the case of a sale of goods that are still owned by us, up until the redemption of all claims the part of the Purchaser's total claim against its

customer that corresponds to the value share of our ownership or co-ownership of the total sold goods is hereby now already assigned to us.

- 9.3 The Purchaser must notify us without undue delay about a pledge or other impairments of our rights. If the value of the securities granted to us exceeds our claims by more than 20% in total, we are obliged to transfer these back at our discretion at the Purchaser's request.
- 9.4 At our request, the Purchaser must provide us with all required information about the existence of the goods in our property and about the claims assigned to us, as well as notify their customer of the assignment.
- 9.5 The Purchaser is obliged to keep the goods subject to retention of title carefully in safe custody and insure them against loss and damage at its own expense. It hereby assigns its claims under insurance contracts in advance to us; we accept this assignment.
- 9.6 The Purchaser's right to dispose of the certificates subject to our retention of title as well as to withdraw the claims assigned to us shall expire as soon as it suspends the payment and/or comes into financial collapse. If these preconditions are met, we are entitled to request the immediate provisional return of the entire goods subject to retention of title to the exclusion of the right of retention without setting a grace period.
- 9.7 If the retention of title in accordance with the law of the country in which the delivered goods are found should not be valid, at our request, the Purchaser must provide an equivalent security. If it fails to meet this request, we may request immediate payment of all outstanding invoices, regardless of the payment goals. The Purchaser is obliged to notify us at any time where the respective goods are located upon inquiry to this effect.
- 10. Loaned Packaging**
- 10.1 Loaned packaging such as barrels, transport cans, canisters, etc. must be sent back freight-free in useable condition to us within 4 weeks of the delivery.
- 10.2 Losses and damage of loaned packaging shall be borne by the Purchaser, unless the damage was caused by the freight forwarder. Loaned packaging may not be used for other purposes or for the inclusion of other products. They are intended merely for the transport of the delivered goods. Lettering may not be removed.
- 10.3 Disposable packaging shall not be taken back by us. Instead we shall indicate a third party to the Purchaser, who shall designate a third party who will arrange for the recycling of the packaging according to packaging regulations.
- 11. Miscellaneous**
- 11.1 The invalidity of an individual clause shall not affect the validity of the other conditions. Instead of the invalid condition, an appropriate regulation which approximates as closely as possible to invalid clause shall apply.
- 11.2 The relevant law of the Federal Republic of Germany to the exclusion of UN Sales Law shall apply exclusively for the legal relationships of domestic parties, as well as in legal transactions with foreign purchasers.
- 11.3 Order confirmations in principle are subject to the condition of compliance with the relevant export regulations, particularly in relation to the fight against terrorism.
- 11.4 The Purchaser's data shall be saved and processed by us only insofar and in accordance with the relevant statutory provisions if this is required for the proper handling of the contractual relationships; the Purchaser declares here its express consent.

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