

BECK GMBH

GENERAL SALES, ASSEMBLY AND DELIVERY TERMS

§ 1

Scope

1. The following terms apply to the sale, delivery and assembly of our delivery items according to the agreement, which was concluded between us and the buyer, to the extent that this deals with companies, businessmen, legal entities according to public law or public special funds.
2. Our general terms and conditions apply exclusively and we do not accept any general terms and conditions, which contravene or deviate from these, of the buyer unless we have expressly approved the applicability of such general terms and conditions. Our general terms and conditions also apply even if we conduct the delivery without any reservations and have knowledge of conditions of the buyer, which contravene or deviate from our terms and conditions.

§ 2

Offer and Conclusion of Agreement

1. Our offers are nonbinding. If no deviating agreement exists, the purchase agreement is brought about through the acceptance of the buyer's order or the start or the execution of the order by us.
2. If we confirm the acceptance of the order in writing, then the confirmation of the order is definitive for the scope and contents of the agency contract and the delivery. Our sales personnel are not authorized to make verbal subsidiary agreements or issue guarantees, whose contents deviate from the order confirmation.
3. The documents on which our offer is based, such as drawings, descriptions and weight and dimension information, only become a part of the contents of the agreement if this was agreed on in writing prior to this. Verbal and/or written product descriptions do not relieve the buyer from the responsibility for his own examination of the delivery item for its suitability for the intended use.

§ 3

Prices and Terms of Payment

1. Our prices apply to deliveries ex works. These are net prices plus the valid statutory value-added tax and the costs for packaging, loading, freight, postage, insurance expenses, customs duties, any costs for banking business and payment transactions and other incidental expenses.
2. If no other agreement was made then we are entitled to demand advance payment. Payment is to be made within 10 days of the invoicing without any deduction. In the case of delinquent payments on the part of the buyer, we have the right to make further deliveries dependent on the complete payment of open claims, including from previous services.
3. If nothing to the contrary has been agreed on, then in the case of wage increases and/or the increase of material prices after the conclusion of the agreement, we are entitled to reasonably adjust the purchase price in deviation from the contractual agreement. In addition, this can be increased by that amount by which our cost price increases due to the fact that after the conclusion of the agreement, the import or export custom duties or other fiscal charges on the goods increase or new fiscal charges are introduced for such goods. This also applies to additional costs for the purchase of our materials. If we demand a price increase of more than 10 percent of the net purchase price which was originally agreed on, then the buyer is entitled to withdraw from the agreement.
4. We will only accept checks and bills of exchange after prior written agreement. The acceptance of these is always only as a conditional payment. The collection and discount charges are to be borne by the buyer.
5. If we become aware of circumstances which indicate the insolvency of the buyer, and in particular the filing of an insolvency petition or the opening of insolvency proceedings against his assets, check protest or stoppage of payments then we are entitled to demand immediate payment of the entire outstanding purchase price even if we have already accepted checks or bills of exchange. If the buyer does not pay the residual debt, which is then due, within three workdays then we may withdraw from the agreement without the setting of any further time limits.

§ 4

Delivery and Delivery Period

1. Binding delivery dates or other time limits must be agreed on in writing and apply ex works. These are extended by strikes and cases of force majeure and more specifically for the duration of the delay plus a reasonable start-up period.
2. If we exceed the delivery date, which was agreed on, by more than eight weeks then after the setting of a reasonable extension of time and the fruitless expiration of such extension, the buyer is entitled to withdraw from the agreement or, if the buyer is interested in a partial delivery, from the unfulfilled part of the agreement. Further claims of the buyer and in particular damage claims in the place of the service and compensation for damage due to delay are excluded unless we, our representatives or vicarious agents have caused the delay due to gross negligence or intent.

§ 5

Passing of the Risk and Shipping

1. Our deliveries are made ex works if no deviating agreement has been concluded.
2. In all cases including the risk of seizure, the risk passes to the buyer including for delivery free of freight with the handing over of the delivery item to the transport person. This also applies if we conduct the transportation or have the transportation carried out even if we have assumed the shipping at our own cost. If the shipping is delayed due to reasons which are in the person of the buyer, then the risk passes to the buyer upon the notification of the readiness for shipment.
3. If no contravening agreement exists, then we are entitled to determine the type and manner of the transport. The costs for the shipping insurance are to be borne by the buyer.

§ 6

Retention of Title

1. We reserve the right to the retention of title to the delivery item until the complete payment of all claims which result from the contractual relation with the buyer, including such claims from checks and bills of exchange and any check or bill of exchange law related rights of recourse from payments by check or bill of exchange, which were accepted as conditional payments. In addition, we reserve the right to the retention of title to the delivery item until the complete payment of all claims which result from the business relations.
2. The buyer may sell the delivery item in the ordinary course of business as long as he assures the extended retention of title (assignment of claim according to the following section 3). Other disposals and in particular pledging, leasing, loaning or transfer by way of security are not permitted without our written approval.
3. The buyer herewith assigns those claims, to which he is entitled due to the sale or other use of the conditional commodity or to which he is entitled at a later time due to such sale or use, to us and we accept this assignment.
4. The buyer is authorized to collect the assigned claims only in the course of ordinary business and such authorization can be revoked at any time. The revocation may be made if the buyer does not properly fulfill his obligations, and in particular his financial obligation according to the agreement, or is insolvent or over-indebted, or if a petition is filed for the opening of insolvency proceedings against his assets. In this case, upon a request from us, the buyer is to notify the debtor of the assignment and we are also entitled to reveal the extended retention of title to the customer of the buyer.
5. The authorization for the buyer for disposal over the conditional commodity and for the collection of the assigned claims expires without any requirement for an express revocation upon the occurrence of his insolvency, stoppage of payments, the filing of a petition for insolvency by the buyer or a third party or the determination of his over-indebtedness. In these cases and in the cases of section 4, we are entitled to take possession of the conditional commodity after the fruitless expiration of a reasonable time limit. The buyer shall surrender possession.
6. In the case of the revocation or expiration of the authorization for collection, the buyer shall promptly notify us of the name or company of the debtor for the assigned claims. Under the prerequisites which were named, we are entitled to notify the debtor of the buyer of the extended retention of title.
7. If the value of the securities which were provided to us exceeds the secured claims by a total of more than 20 percent, then upon a request of the buyer, we shall release the excess securities according to our choice.

§ 7

Warranty

1. Complaints due to incomplete or incorrect deliveries or notifications of defects due to obvious defects are to be reported or provided to us promptly after the delivery of the delivery item or any acceptance conducted. Otherwise, the delivery item is considered to have been approved unless we, our legal representatives or vicarious agents are culpable due to fraudulent intent. We are to be notified by the buyer of any hidden defects promptly upon the discovery of these. Sections 377 and 378 of the Commercial Code also apply.
2. If a defect exists, then we are basically only liable for subsequent improvement whereby we expressly reserve the right to the selection of the type of subsequent improvement such as subsequent fulfillment or a replacement delivery. We are entitled to reject the subsequent fulfillment if this is connected with disproportionate costs for us. Then, and in the case of the failure of subsequent fulfillment, the buyer has the right to reduce the price or to withdraw from the agreement as he chooses.
3. If we so request, the buyer is to send us the defective goods at his own risk for subsequent improvement or replacement delivery.
4. Our warranty does not apply to the suitability of the goods for the purpose of use, which is intended by the buyer and deviates from the normal purpose of use, if this is not agreed on in writing. We do not assume any warranties in a legal meaning.
5. In the case of the failure to follow product, storage and/or servicing instructions, we do not provide any warranty. This also applies if changes are made to the delivery items, parts are replaced or if expendable materials are used which do not correspond to the original specification. However, the buyer is entitled to provide proof that the goods were already defective and more specifically irrespective of the failure to follow our instructions or any changes.

§ 8

Liability for Violations of Duty and Damages

1. We are liable within the scope of the statutory provisions for damage claims if we, our representatives or vicarious agents are culpable due to intent or gross negligence. We are only liable for ordinary negligence if a culpable breach of contract occurs, or for loss of life, physical injury or damage to health, or if liability exists due to the provisions of the Product Liability Law.
2. Damage claims by the buyer are limited to the typical and foreseeable damage. This does not apply to claims, which are due to intentional or grossly negligent behavior by us, our representatives or our vicarious agents. In addition, the limit does not apply to the liability for damages due to the loss of life, bodily injury or damage to the health of a human being or in the case of liability according to the provisions of the Product Liability Law.

§ 9

Statutory Limitation

1. Claims to which the buyer is entitled due to defects of the delivery item are barred by statute after a time limit of one year. The time limits starts with the delivery of the delivery item or with the acceptance if such acceptance is made.
2. Claims of the buyer for damages due to the violations of duty are barred by statute after a time limit of 18 months after the start of the statutory limitation. If shorter time limits apply due to section 199 of the Commercial Code, then these are definitive.
3. The limitation provisions in the above sections 1 and 2 do not apply in the cases of the right of recourse for a delivery according to sections 478 and 479 of the Civil Code, or for damage claims resulting from loss of life, bodily injury or damage to the health of a human being, or for liability according to the Product Liability Law. These also do not apply if we, our representative or our vicarious agents are culpable due to intent or gross negligence. In these cases, the statutory limitation provisions apply.

§ 10

10. Design Changes

1. We reserve the right to make design changes to the delivery item, if this should be necessary, for example, due to changing requirements due to the state of technology.
2. In this case, however, we are not obligated to change or replace a delivery item which has already been delivered.

§ 11

Graphic Illustrations

1. We reserve all ownership interests and copyrights to the figures, drawings, calculations and other documents.
2. The dissemination of documents which we have designated as "confidential" to third parties always requires our written approval.

§ 12

Assignment, Offsetting and Retention

1. The buyer is not entitled to assign or transfer claims or rights which are directed against us from the business relations to a third party without our approval. The same applies to claims and rights against us which exist directly by operation of law.
2. Offsetting with counterclaims of the buyer which are disputed, appealable or not ready for decision, is excluded. The buyer also waives the right to exercise any right to the refusal of performance or right of retention unless we, our legal representatives or vicarious agents are culpable of fraudulent intent or material breaches of contract or the counterclaims of the buyer, on which the right of refusal of performance or the right of retention is based, are based on the agreement or are undisputed, non-appealable or ready for decision.

§ 13

Place of Performance, Venue and Governing Law

1. The place of performance for all claims from these business relations is the seat of our company, which is presently at 72459 Albstadt.
2. The venue for all claims from the business relations including such from bills of exchange and checks is the court which has jurisdiction over the district in which our seat is located. We are also entitled to take legal action before the court which has jurisdiction over the seat of the buyer.
3. All contractual and business relations between us and the buyer are exclusively governed by the law of the Federal Republic of Germany with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).