

GENERAL TERMS AND CONDITIONS OF SALE, DELIVERY AND PAYMENT BAUST & CO GMBH IN 40764 LANGENFELD, GERMANY

I. GENERAL PROVISIONS

1. Scope: Our Terms and Conditions are to be interpreted according to the principles of loyal and reasonable businessmen. They shall be deemed as once and for all agreed even if we do not expressly object to divergent reconfirmations/conditions of purchase. They shall be taken as a basis for resellers and apply to buyers/recipients and those who bear liability for their obligation. Deviations apply only when we expressly confirm these in writing and only for the relevant contract as well as under the conditions of correct contractual performance by the buyer. At the latest at the time of accepting our goods, our General Terms of Delivery and Payment shall be deemed as accepted.

2. Quote, Contract Conclusions: Quotes are always non-binding, if we do not confirm something else expressly in writing. Freight specifications are non-binding. Orders, agreements with our ladies and gentlemen, their quotes, information and subsidiary agreements shall only bind us upon our written confirmation and only insofar as we attain necessary permits (e.g. for import and export); they are all under the reservation that we have stocks for all orders available, resp. can procure the materials that we require for our production on time. All kinds of errors, in particular writing and calculation errors are not binding for us; we can correct these at any time without any claims being asserted against us. Ownership and copyright of documents for quotes, drawings and contracts remain reserved; the documents may not be made accessible to third parties.

3. Terms of Payment: In the absence of other agreements, all prices are ex works, exclusive of possible costs for packaging. Packaging will be charged at cost price. We are entitled, on the basis of possible cost increases of our production factors, which may have occurred between order acceptance and delivery, to charge the prices which are valid on the day of delivery. In the case of cancellation of an order, we reserve the right to charge all costs we incurred up to the time of cancellation, e.g. design and handling costs, costs of the material which can no longer be used.

Domestically, our invoices are payable within 8 days after invoice date with 2% discount or within 30 days net, with exclusion of offset and right of detention; abroad, the payment terms specified in our order confirmations or pro-forma invoices apply. If the due date for payment is exceeded, we are entitled to charge interest in the amount of 4.5 % above the respective Bundesbank discount rate, at least however 7.5%, in addition to other dunning costs.

We accept bills of exchange only on account of payment, and only because of explicit agreement and if they are eligible for discount. Discount and bank charges shall be at the expense of the buyer. We accept no responsibility for timely presentation and protesting. Credit notes for

bills of exchange or cheques will always be issued subject to receipt and less expenses and shall be applied notwithstanding earlier maturity of the purchase price in the case of default of the ordering party; they are made at the value on the day on which we are able to access the exchange value. Non-compliance with the terms of payment or circumstances which become known to us after the respective contract conclusion and which, in our opinion, are suitable to reduce the credit worthiness of the buyer, result in all claims becoming due immediately, irrespective of the maturity of any incoming or credited trade bills. Furthermore, in such a case we are entitled to conduct still outstanding deliveries only against advance payment or security and, after appropriate period of grace, to withdraw from the conclusion of the contract or demand compensation for non-performance. We can also prohibit the resale of the goods delivered under retention of title and demand their return or the transfer of the indirect possession at the expense of the buyer and revoke the direct debit authorization in accordance with § 1 number 4 para. 8.

We are entitled to offset all accounts receivable due to us against the buyer. This also applies when cash payment has been agreed by one party and by the other party in bills of exchange or other performances on account of fulfilment. Where appropriate, these agreements only refer to the balance. If the accounts receivable are due at different times, they will be settled at the value date.

4. Retention of title: All delivered goods remain our property (reserved goods) until fulfilment of all our receivables, for whatever legal reason, in particular also our balance claim, even if payments are made for especially designated claims.

Treatment and processing of the reserved goods are conducted for us as manufacturer within the meaning of § 950 German Civil Code (BGB), without obligating us. In the case of processing with other not belonging to us, then we shall be entitled to a share in the ownership in the ratio in which the following are to one another: our invoice value of our reserved goods used for the manufactured item to the sum of all invoice values of all the goods used during manufacture. If our goods are mixed or combined with other objects and our ownership in the reserved goods is terminated by this (§ 947, § 948 German Civil Code (BGB)), then it is here agreed that the ownership, resp. co-ownership rights of the buyer in the mixed stock or the unitary item within the scope of our invoice value of our reserved goods are assigned to us and the buyer stores these for us free of charge. For items/stocks resulting from the processing or combination or mixing, the same shall apply as for the reserved goods. Items/stocks are considered reserved goods within the meaning of these General Terms of Delivery and Payment.

The buyer may only sell the reserved goods in the ordinary course of business at his normal terms and

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conditions and as long as he is willing and able to meet his obligations towards us properly. He is entitled and authorized to sell the reserved goods only with the proviso that the claim from the resale passes to us in accordance with paragraphs 4 to 7. He is not entitled to other dispositions of the reserved goods. The claims of the buyer from the resale of the reserved goods are hereby assigned to us, irrespective of whether the reserved goods are resold without or after agreement, mixing or combination, and whether to one or more customers.

For the case that the reserved goods are sold by the buyer together with other goods which do not belong to us, the subrogation from the resale applies only in the amount of the invoice value of the respectively sold reserved goods.

If the reserved goods are resold after processing, in particular after processing with goods which do not belong to us or after combination/mixing, the subrogation applies only in the amount of our co-ownership share in the sold item or the sold stocks.

If the reserved goods are used by the buyer to fulfil a contract for work and services or for work and materials, the claim from the contract for work and services or for work and materials is transferred to us in advance to the same extent as defined in paragraph 4 to 6. The buyer is entitled to collect claims from the resale up to our revocation which is permissible at any time; we will make use of our right to revocation only in the cases stated in number 3 paragraph 5.

The buyer is in no case entitled to assign the claim. Upon our request, he is obliged to inform his customers of the assignment to us and to provide us with the information and documents necessary for the collection. If the value of the securities existing for us exceeds our claims by a total of more than **20%**, then we are obliged to **release securities of our choice upon** request by the buyer.

The buyer must inform us immediately about a seizure or other impairment by third parties. If the retention of title not be legally valid according to the law applicable where the goods are located, then a security corresponding to the retention of title and assignment shall be deemed to be agreed. Should the cooperation of the customer be necessary for the creation of such rights, then he shall undertake all measures which are necessary to establish and maintain such rights upon our request.

5. Drawings and Documents: All documents for products supplied by us, in particular drawings, remain our property and, without special approval, may only be used for the intended contractual purpose. If a contract is not concluded, or if it is terminated, all documents must be returned immediately.

6. Place of performance, Place of jurisdiction; applicable law: Provided the customer is a registered trader, our registered office is the place of jurisdiction; we are, however, entitled to sue the customer at his local court. Insofar as nothing other results from the order con-

firmation, our registered office is the place of performance.

The above shall also apply vis-à-vis all those who are liable for the obligations of the buyer.

The Law of the Federal Republic of Germany shall apply for all legal relationships between us and the buyer.

II. EXECUTION OF THE DELIVERY

1. Delivery Period, Delivery Date, Partial Deliveries:

The delivery period starts on the day we accept the order, however not before the complete clarification of all details of the performance; the delivery periods and delivery dates are deemed as given approximately and non-binding in the absence of any special agreement. Delivery period and delivery date are deemed as fulfilled with the timely reporting that the goods are ready for shipment, when the dispatch is impossible without any fault on our part.

The agreed delivery period will be extended – regardless of our rights from default on the part of the buyer— by the period, by which the buyer is in default with his obligations from this or another contract conclusion. This applies analogous when a delivery date is agreed.

In case that we ourselves are in default, the buyer must set us an appropriate period of grace. After expiry of this period of grace he may withdraw from the contract conclusion, insofar as the goods have not been reported as ready for dispatch at the time of expiry of the deadline.

Partial deliveries are permitted in any case; each partial delivery is deemed as independent business transaction.

Damage claims from non-compliance with the delivery period or delivery date are excluded.

2. Delivery Disturbances: Indirect or direct prevention or obstruction of delivery, which is unforeseen or unavoidable for us, is deemed as force majeure. This applies, in particular, when our pre-suppliers, due to their conditions, are released from the delivery as a whole or in part. In such cases we are, even if we were already in default, entitled to deliver with corresponding delay, including appropriate start-up time, and withdraw from the contract immediately or later, without being obliged to compensation or subsequent delivery. The buyer may withdraw when we, upon his request, do not declare whether we wish to withdraw or deliver within a reasonable deadline.

3. Acceptance: The buyer is entitled to accept those goods, for which special quality regulations are a condition, or which go abroad, at supplier's immediately after notification of the readiness for dispatch. The personal acceptance costs are at the expense of the buyer; the factual acceptance costs will be invoiced separately if they are not included in the price. The goods are deemed as delivered according to contract in every respect upon dispatch, when the buyer has accepted the goods, or the agreed acceptance is not conducted,

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or not on time or not completely. The same applies when the buyer does not conduct an acceptance despite request by the seller.

4. Dispatch and Transfer of Risk: If not contrary to commercial custom or otherwise agreed, the goods will be supplied without packaging. With the handover to the railway, the forwarder or carrier, at the latest, however, when the goods leave the plant or warehouse the risk — including confiscation — shall pass in any case — e.g. also with carriage paid, fob or cif business transactions — to the buyer.

We insure the goods only upon express request of the buyer and against reimbursement of the costs by the buyer.

We can select the means of transport and protection, as well as the dispatch route to the exclusion of any liability.

We can deliver finished goods to the buyer without prior notification unless otherwise expressly agreed. Goods reported ready for dispatch on the contractual date (comp. II, 1) must be called off immediately. If the goods cannot be dispatched within six days after our notification of dispatch readiness, we are entitled to dispatch it, without consideration of other agreements, according to our own choice, or to store them at the expense and risk of the buyer according to our own discretion and to charge them as delivered ex works after notification of the dispatch readiness, unless we are responsible for the non-contractual dispatch.

5. Deviations: Deviations from dimensions, weight and quality are permissible according to DIN or valid practice.

Dimensions and weights, which are contained in our figures, drawings, catalogues and documents are only approximate; Amendments are reserved. If these specifications deviate from the actual values, the buyer shall not be entitled to any claims.

6. Defects/Delivery of nonconforming goods: The buyer must make notices of defects immediately, at the latest however, five days after receipt of the goods. Defects, which cannot be detected even by the most careful examination within this period, must be reprimanded promptly immediately after their discovery and with immediate cessation of any processing, at the latest however three months after receipt of the goods.

In the case of justified complaint, including lack of assured properties, we are obliged to rectification or replacement delivery at our own discretion. Instead, we can also credit the buyer the reduced value in suitable cases. In the case of incompleteness, we are obliged to subsequent delivery.

All other entitlements, in particular annulment of the contract and contractual or non-contractual compensation of damages, reimbursement of any costs incurred by the buyer, or similar, are excluded.

The above stated entitlements become time-barred in six months from date of delivery or one month after written rejection of the notice of defects by us. The above provisions also apply with delivery of goods other than contractual goods.

When conducting commission orders, we are liable for the appropriate execution of the work accepted by us only up to the amount of the confirmed, resp. accrued wage costs.

III. LIABILITY

Our liability is exclusively based on the agreements being met in the aforementioned clauses. All therein not expressly conceded claims for whatever legal reason – are excluded. § 276 para 2 German Civil Code (BG) remains unaffected.

IV. MISCELLANEOUS

1. Continuous Delivery: In the case of contract conclusions with continuous delivery, call-offs and corresponding specifications for approximately the same monthly quantities should be placed with us. If goods are not called off or specified on time, we shall be entitled after fruitless extension of time, to specify ourselves and to deliver the goods or to withdraw from the part of the contract conclusion still in arrears and to claim damages.

2. Exceeding the Contract Conclusion: If the contractual quantity is exceeded by the buyer's individual call-offs, we shall be entitled to deliver the surplus. We can invoice the surplus at the prices published or applicable at the call-off or the delivery.