

General Terms and Conditions of Business of BeA GmbH

The following General Terms and Conditions of Business (T&Cs) of BeA GmbH (hereinafter referred to as the "Supplier") form part of the agreement by mutual consent; they take precedence over any deviating terms set by the buyer (hereinafter referred to as the "Customer" or "Buyer"). This shall also apply if the Supplier provides services which deviate from the General Terms and Conditions of the Customer.

I. Terms and Conditions of Sale and Delivery

1. Order placement

- 1.1 An agreement shall only enter into effect upon written confirmation by the Supplier or upon execution of an order. Changes, additions and subsidiary agreements to the contract must be made in writing. This shall also apply to this clause.
- 1.2 The Buyer is liable for the accuracy of all documents provided by him, in particular for any drawings, instructions and samples. The Buyer must notify the Supplier of any obvious defects by providing measurements and calculations in good time prior to implementing the order. The Supplier is not obliged to examine the item.
- 1.3 Samples will be provided at additional cost unless otherwise agreed.
- 1.4 Figures, drawings, images and service descriptions provided in brochures, catalogues, price lists or documents relating to the order are approximations in keeping with standard commercial practices.

2. Performance period, impossibility, delay

- 2.1 The delivery dates specified by the Supplier shall be viewed as approximates unless a fixed delivery or performance date has specifically been agreed. A delivery date is considered as met if the goods are handed over to the Customer by the time agreed in Clause 5.2 or upon the Customer receiving notification that the goods are ready to ship.
- 2.2 In the event of subsequent amendments to the contract which could have an effect on the term of the contract, the latter shall be extended accordingly.
- 2.3 If the Supplier is unable to fulfil their obligation to deliver as a result of unforeseen, extraordinary events which, despite taking precautions reasonable for the circumstances in the specific case, are beyond their control - regardless of whether they occur at the Supplier's factory or at the premises of its subcontractors, in particular official interventions, operational disruptions, work disputes, delays to delivery of raw and auxiliary materials or force majeure - the delivery date shall be extended accordingly. If the execution of the contract is unreasonable for any of the parties due to the above-mentioned events, in particular if the execution of the contract is delayed substantially by more than 6 months, that party may request to withdraw from the contract.
- 2.4 If the Supplier does not receive the specific goods for fulfilling an order, or delivery of these is delayed or damaged, he is released from his obligation to supply the sold goods provided that he has taken the necessary steps to ensure timely self-delivery. The Supplier shall be responsible for immediately informing the Buyer in the event of non-availability and proceed with the prompt reimbursement of any services in return already provided.
- 2.5 If the Supplier is at fault for non-compliance with delivery dates or deadlines, the Customer may withdraw from the contract after fruitless expiry of a written, appropriate extension of the deadline. The Buyer may request compensation for damages in accordance with Section 12 of these T&Cs only. The same shall apply for other impossibilities of the Supplier.
- 2.6 In the event of impossibilities of the Supplier, the Buyer shall be obliged to reimburse the Supplier for any services carried out thus far based on the fair market value. The same shall apply if the Supplier is entitled to withdraw from the contract due to contractual or legal guidelines. Additional rights of the Supplier shall remain unaffected.

3. Pricing

- 3.1 Unless otherwise agreed, all prices are understood to be ex-works and exclusive of packaging, shipping, postage and insurance. All prices are quoted exclusive of statutory sales tax.
- 3.2 If prices are not quoted or are to be at "current list prices", the list prices valid at the date of delivery will be charged. If the agreed price is not based on a list price but an agreement between the contractual parties, and the list price, market price or price for a subcontractor service has increased by more than 5% since the point of conclusion of the agreement, the Supplier can request that the agreed price be adjusted accordingly (exemption limit). This shall apply if a delivery term of more than four months is agreed or delivery takes place more than four months after conclusion of the contract for valid reasons outside of the Buyer's control. The preceding provision shall apply for price increases of up to 10%. For greater price adjustments, a new price agreement is required. If the aforementioned comparison price has increased by more than 25% and neither parties agree to a price increase, the Supplier is entitled to withdraw from the contract. The Customer shall have no further rights in this case.

4. Payment terms

- 4.1 Payments are due upon receipt of the invoice and are payable without deduction after 15 days. The Supplier is entitled to send the Customer invoices electronically, i.e. via email.
- 4.2 Should the Supplier become aware after conclusion of the contract of a material adverse change on the part of the Buyer which may endanger his chances of claiming payment, up to the time of his delivery or providing the service agreed he may require the lodgement of a suitable guarantee within a reasonable period or provide his service step-by-step pursuant to Section 232 Para. 1 BGB. The Buyer can assign a qualified guarantor to act as security, to guarantee any claims as a primary liability and who is available for immediate consultation. If the Buyer does

not satisfy the Supplier's justifiable demand or does not do so within a reasonable time, the Supplier may terminate the contract. In the event of termination of the contract, the Supplier shall be reimbursed for any preliminary work at the fair market value.

- 4.3 If the Buyer does not make payment in time, despite warning, the Supplier is entitled to discontinue all orders placed by the Buyer in addition to claim to performance and/or other legal or contractual rights.

5. Shipping and transfer of risk

- 5.1 Shipping takes place ex-works. Unless otherwise agreed, the Supplier is not obliged to choose the cheapest shipping option.
- 5.2 Risk shall be transferred to the Customer once the goods have been received by the ordering party. If goods are ready to ship and shipment or space allocation are delayed for reasons outside of the Supplier's control, the risk shall pass to the Buyer upon receipt of notification of readiness for dispatch.

6. Minimum order quantities/tolerances

- 6.1 The Supplier shall only accept orders of a delivery value over €250. For orders below €250, the Supplier reserves the right to request a minimum quantity surcharge of €25. In the absence of any agreement to the contrary, deliveries will be made using the shipping units stated in the order documents.
- 6.2 Partial deliveries to a reasonable extent and excess or short deliveries up to 10% of the total order quantity are permitted. The Buyer is obliged to consider this when placing their order without any claims being possible against the Supplier.

7. Industrial property rights

- 7.1 Any images, drawings and other documents shall remain the property of the Supplier and subject to copyright law; they may not be made available to third parties without the Supplier's consent and must be returned immediately upon request.
- 7.2 If the production of goods based on drawings, samples or other information from Buyer violates the intellectual property rights of third parties, then the Buyer is obligated to release the Supplier from all claims or to compensate him for the damage that he claims to have suffered.

8. Retention of title

- 8.1 The Supplier reserves the title to the delivered goods until all claims have been settled with the Buyer (**reserved goods**). In the case of payment by means of cheque or bill of exchange, title to the goods is retained until the bill is cleared by the Customer. Cheques will only be accepted on condition of fulfilment and not instead of performance. In the case of current accounts, the retention of title will serve to balance the Supplier's claims. The Buyer is obliged to appropriately insure the reserved goods, at their own expense, against all common risks, particularly fire and theft, and submit proof upon request.
- 8.2 Acquisition of ownership by the Buyer pursuant to Section 950 BGB is not permitted. A potential connection, mixing, filling or manufacturing and processing of the reserved goods with other goods not belonging to the Supplier may take place in the knowledge that the Supplier shall acquire joint property rights of the new item whereby the invoice value of the reserved goods shall correspond to the overall sales value of the new item. The new item shall therefore be considered as reserved goods for the purpose of these conditions and will be stored by the Buyer for the Supplier. Should the Buyer acquire sole ownership of the new item, he shall transfer the co-ownership share to the Supplier in respect of the value of the processed reserved goods.
- 8.3 The Buyer may only sell the reserved goods in the normal course of business and provided he is not in default. The Buyer shall now assign all claims to the Supplier arising as a result of resale to third parties. This assignment occurs only on account of performance. This assignment extends to all future existing claims concerning resale of the reserved goods. If the reserved goods to which we have title are sold by the Buyer together with other goods not delivered or in a processed state by the Supplier, then the receivables ceded to us from the resale will not exceed the invoice value for the reserved goods. In the event of resale of new items of which the Supplier has acquired joint ownership, then the receivables ceded to us shall be the value of the co-ownership share. The assigned claims will serve as security to the Supplier's claims to the same extent as the reserved goods.
- 8.4 The Buyer himself may collect the assigned claims provided he has complied with the payment terms of the business relationship, is not in default and is not subject to insolvency proceedings.
- 8.5 Should the Buyer not fulfil their contractual obligations, particularly with regard to delayed payment, the Supplier is entitled to demand temporary return of the reserved goods at the Buyer's expense and without exercising the right of withdrawal or setting a grace period.
- 8.6 In cases where third parties access the reserved goods or claims and securities of the Supplier, particularly in the event of pledging or other enforcement measures, the Buyer must indicate the Supplier's ownership and immediately notify the Supplier and provide the documents necessary for an intervention; this shall also apply to impairment of any other kind. The Buyer shall reimburse the Supplier for the costs of resisting such seizures and claims.
- 8.7 The Supplier is obliged to release at his own discretion any securities that he is entitled to in accordance with the above provisions to the extent that the realisable value of such securities exceeds the receivables to be secured by more than 10 percent.

9. Moulds and tools

- 9.1 The costs for moulds or tools to be prepared will be invoiced pro rata and separately from the cost of the goods

- 9.2 Through remuneration of shares of costs for moulds/tools, the Buyer shall not acquire any rights to these; the moulds/tools shall remain the sole property of the Supplier. The Supplier is obliged to store the moulds/tools on the Buyer's behalf for a duration of one year from the final delivery. Should the Buyer provide notification before expiry of this deadline that they intend to place orders within this additional year, the storage period shall be extended further by one year.
- 9.3 Once this period has expired, the Supplier has free access to the moulds/tools. The Buyer may however acquire the moulds/tools by payment of the full costs.

10. Warranty

- 10.1 If the goods delivered are faulty, the Supplier may then choose to either fulfil the order by remedying the defect or supplying a new product. He is obliged to bear the costs for all expenses, particularly transportation, tolls and material costs, required to remedy the defect as far as these costs are not increased by moving the delivery to a place other than the place of performance unless this complies with the use under the provisions of this contract.
- 10.2 If subsequent performance is not effected within a suitable period of time, i.e. a minimum of 2 weeks, or if the second attempt fails as well, the Buyer is entitled to choose between a reduction in the sale price or withdrawal from the contract.
- 10.3 The warranty obligation shall not apply if the Buyer does not use original parts or fixings and replacement parts approved by the Supplier with regards to the use of staplers and pneumatic nailers. The same shall apply to damages arising as a result of chemical influences on fixings used insofar as these are not foreseeable in the contract.
- 10.4 For defects caused by inappropriate or incorrect use, natural wear-and-tear, improper assembly or operation by the recipient or third party, or by incorrect or negligent treatment, warranty shall also not apply nor for the consequences of incorrect changes by the Buyer or third parties or those carried out without the Supplier's authorisation.
- 10.5 See Section 12 for claims for compensation of damages. Clause 12.5 shall apply for the limitation period of warranty claims.

11. Examination and notification obligation

- 11.1 The Buyer is obliged to inspect the goods immediately upon delivery, and no later than immediately after unloading from the means of transport. Any defects, incorrect deliveries or missing items must be reported immediately. This notification must be made in writing. If the goods are being sent on further by the Buyer, inspection must take place at the initial place of delivery regardless. If own know-how is not sufficient, then an expert must be consulted immediately.
- 11.2 The notification period for non-conforming goods shall be two weeks from the date of delivery or release at the agreed location for defects which are detected in the course of proper inspection, and two weeks from the point of detection for defects that were not immediately apparent (hidden defects).
- 11.3 The Buyer must allow the Supplier sufficient opportunity to satisfy itself of the defect and notify them of the place where the goods are located and provide access to the goods. If this obligation is violated or the goods have been further processed, sent on or modified, these goods shall be considered approved. In the event of hidden defects, the Buyer shall bear the burden of proof that the goods were in a defective condition at the time of delivery.
- 11.4 Goods shall be considered approved if violation of obligation occurs pursuant to 11.1 to 11.3. and in the event of incorrect or non-timely notification of such defects that could have been detected upon proper inspection. Section 377 HGB shall apply unless otherwise stipulated in these T&Cs.

12 Compensation for breaches of duty

- 12.1 The Supplier is liable without limitation in accordance with legal guidelines for damages occurring as a result of wilful intent or gross negligence. Excluded hereto is contractual violation due to gross negligence by simple vicarious agents, whereby liability shall be limited to predictable and typically occurring damage.
- 12.2 The Supplier shall be liable for damages from simple negligence if this breaches a material contractual obligation. Material contractual obligations are particularly those which are required in order to achieve the purpose of the contract and on which the customer may rely. In this instance, liability is limited to predictable and typically occurring damage. This liability is limited to a **maximum amount of 2500 euros**. This maximum liability amount shall also apply once more in the event of multiple breaches of duty (maximum overall amount).
- 12.3 Pursuant to legal guidelines, the Supplier shall be liable without limitation for damages to loss of life, bodily injury or damage to the health of a person. The Supplier's mandatory liability pursuant to product liability law shall also remain unaffected. Limitations of liability pursuant to Clauses 12.1 and 12.2 shall not apply.
- 12.4 Unless otherwise stipulated, compensation claims of the Buyer shall be excluded. The provisions in this clause shall also apply to non-contractual claims for damages as well as in favour of employees and other vicarious agents of the Supplier.
- 12.5 Excluded herewith are cases in which the Supplier is liable without limitation pursuant to the provisions in Section 12, whereby all warranty claims shall become statute-barred within one year as of the start of the statutory limitation period. This shall also apply for subsequent claims for defects. The statute of limitations in the event of a delivery recourse according to §§ 478, 479 BGB remain unaffected. This lasts for 2 years.

13. Applicable law, place of delivery, court of jurisdiction

- 13.1 German law shall apply for all legal obligations and their implementation as well as any claims which may arise under exclusion of the UN Convention on the International Sale of Goods.
- 13.2 The place of fulfilment for all legal obligations is BeA GmbH.

13.3 The place of jurisdiction for any disputes arising from this contract is Lübeck. The Supplier is entitled to resolve disputes at the court of his registered offices.

14. Effectiveness in the event of partial invalidity, offsetting

14.1 Should individual provisions of these contractual conditions be or become invalid, this shall not affect the validity of the other provisions. This ineffective provision shall be replaced by one which most closely resembles the originally intended purpose of the ineffective provision.

14.2 With regards to claims by the Supplier, the Buyer is not entitled to make deductions to payment of the purchase price or other claims or connection with the contract or exercise a right of retention unless this claim is known, undisputed or legally recognised. He is only authorised to effect a lien only, as far as his counterclaim is based on the same contractual relationship.

II. Special conditions for repairs

Repairs which do not come under the warranty in Section 10 are subject to the following conditions in addition to Section I. Insofar as the following provisions deviate from those stipulated in Section I, the following provisions apply.

1. Costs for non-executed orders

If a repair cannot be performed because the fault cannot be determined under observation of proper engineering standards or the order was withdrawn during implementation, the Buyer shall receive an invoice for any costs incurred.

2. Remuneration of a cost estimate

If a cost estimate is provided at the Buyer's request, they must remunerate any time-related costs which arise.

3. Extended lien on movable items

3.1 The Supplier shall be entitled to a contractual right of lien on the Customer's item in its possession. The right of lien may also be claimed on account of claims arising from earlier work, replacement part deliveries or other services insofar as they relate to the item. For other claims arising from the business relationship, the right of lien is only valid insofar as these are undisputed or legally binding.

3.2 If the item is not collected within 4 weeks from the date of the collection request, the Supplier may charge a storage fee upon expiry of this period. If no collection is made after 3 months from the date of the collection request, the Supplier is no longer obliged to store the item and is not liable for minor negligent damage or destruction. The Buyer must be sent a due notice one month prior to expiry of this period. The Supplier is entitled to sell the item at market value upon expiry of this period in order to cover costs. The Buyer shall reimburse any loss in value.

4. Retention of title

4.1 Unless spare parts etc. assembled within the scope of repair work become integral parts, the Supplier retains title to any assembled parts until all its claims from the existing contract have been settled.

4.2 Should the Buyer be in default, the Supplier may demand that the Buyer return the item to disassemble the built-in parts. The Buyer shall bear the costs of return and disassembly.

4.3 Should the Buyer conduct the repair, they must give the Supplier the opportunity to disassemble the item at the Buyer's premises. Labour and toll costs incurred shall be borne by the Buyer.

Ahrensburg, June 1st 2021