

besecke GmbH & Co KG

General Terms and Conditions of Sale and Delivery

These Terms and Conditions apply to all deliveries of besecke GmbH & Co KG (hereinafter referred to as "the Supplier"). They shall also apply to all services which are agreed in addition to the delivery as ancillary services (such as e.g. assembly, installation and commissioning) or independently as main services (hereinafter uniformly referred to as "Services"). These conditions shall apply even if the Supplier performs without reservation in the knowledge of conflicting or deviating conditions of the Purchaser. The Purchaser's general terms and conditions of purchase and order shall not apply.

1. Offer and conclusion of contract

- 1.1 The Supplier's offers are subject to change. The Supplier reserves all rights, in particular property rights and copyrights, to offers, samples, cost estimates, drawings, technical information and other documents (hereinafter referred to as "Documents"). The Documents may only be made accessible to third parties with the prior written consent of the Supplier.
- 1.2 The contract shall be concluded by written order confirmation from the Supplier. It shall also be decisive for the scope of the delivery/service unless the Purchaser immediately objects to any deviations from the order. Verbal collateral agreements do not exist.
- 1.3 The Supplier reserves the right to make changes to the design, material or form of the subject matter of the contract, provided that the subject matter of the contract is not fundamentally changed as a result and the change is reasonable for the Purchaser.

2. Prices

- 2.1 Prices are quoted in EUR and are ex works (EXW, Incoterms® 2020) excluding all costs and charges for packaging, loading and unloading and any transport insurance requested by the Purchaser as well as all taxes, customs duties or levies payable under applicable law. The Purchaser undertakes to pay or reimburse any taxes, customs duties or levies imposed on the Supplier or its subcontractors which are not deductible.
- 2.2 In the case of contracts for deliveries and/or services that are delivered or rendered later than four months after conclusion of the contract, the Supplier shall be entitled to increase the prices by the cost increases that have occurred in the event of cost increases after conclusion of the contract due to collective labour agreements or increases in material prices or increases in freight costs.
- 2.3 If the Supplier is responsible for installation, assembly or other on-site services, the Customer shall bear all ancillary costs incurred because of the services (in particular travel expenses, allowances and costs for official authorisations) in addition to the agreed remuneration, unless otherwise agreed.
- 2.4 In the event of changes to the technical specifications or delivery: If the Supplier is unable to fulfil the order within the agreed time limit at the request of the Customer after conclusion of the contract, the Supplier shall be entitled (even in the case of an agreed fixed price) to demand reasonable additional remuneration.
- 2.5 A minimum order value of EUR 75 applies to spare parts deliveries.

3. Terms of payment

- 3.1 Payments shall be made free Supplier's paying agent or to the bank account specified by the Supplier.
- 3.2 Unless otherwise agreed, invoices are payable immediately and must be paid without deduction no later than 15 days after the invoice date.
- 3.3 If the Purchaser is in default with its payments, the Supplier may - without prejudice to other statutory or contractual rights - demand default interest in the amount of nine (9) percentage points above the base interest rate.
- 3.4 The Supplier shall also be entitled to payment of a lump sum of EUR 40 in the event of default in payment by the Purchaser. This shall also apply if it is a payment on account or other instalment payment. If compensation for damages is also owed due to the delay, the lump sum shall be offset against this insofar as the damage is based on the costs of legal action.
- 3.5 The Customer may not refuse payment due to insignificant defects.

4. Retention of title

- 4.1 All delivery items shall remain the property of the Supplier until all obligations arising from the business relationship have been fulfilled in full and shall remain reserved goods until the aforementioned point in time.
- 4.2 For the duration of the retention of title, the Customer is prohibited from pledging or transferring the goods subject to retention of title by way of security.
- 4.3 The Purchaser is authorised to resell the goods subject to retention of title in the ordinary course of business subject to revocation and subject to the provision in clause 4.3.4. The Purchaser is permitted to process or remodel the goods subject to retention of title and shall do so on behalf of the Supplier. The Purchaser shall store

the resulting new item for the Supplier with the care of a prudent businessman.

The new item shall be deemed to be reserved goods. Should the combination or mixing take place with objects that do not belong to the supplier, the supplier shall acquire proportionate ownership and the new object shall only be deemed to be reserved goods to this extent.

- 4.3.1 To secure all claims of the Supplier arising from the business relationship, the Purchaser hereby assigns its claims from the resale of the reserved goods in the amount of the purchase price claim (including VAT) to the Supplier accepting the assignment in each case.
- 4.3.2 The Purchaser is authorised and obliged to collect the claims assigned to the Supplier until revocation. The Supplier shall be entitled to revoke the collection authorisation if the Purchaser defaults on payment, suspends payments or files an application for the opening of insolvency proceedings.
After revocation of the direct debit authorisation, the Supplier shall be entitled to collect the claims. At the Supplier's request, the Purchaser shall inform the Supplier of the assigned claims and their debtors and provide all information required for collection and hand over the associated documents and inform the respective debtor of the assignment.
- 4.3.3 The securities existing for the claim for payment shall be released by the Supplier insofar as the value of the securities exceeds the value of the claims to be secured by 50 % or more.
- 4.3.4 The authorisation to sell in accordance with clause 4.3 shall expire if the Customer defaults on its payments or culpably fails to meet the obligations arising from the retention of title, including the assignment of claims, or if insolvency proceedings are instituted against the Customer's assets.

In such cases, the entire remaining debt shall become due immediately. If it is not paid immediately, the Purchaser's right to use the reserved goods shall expire. The supplier shall then be entitled to withdraw from the contract after a grace period of 14 days and to demand the return of the reserved goods after cancellation. The Purchaser shall only have a right of retention to the reserved goods for legally established, recognised or undisputed claims. All costs arising from the seizure and realisation of the reserved goods shall be borne by the Customer.

- 4.4 The Purchaser must inform the supplier immediately of any seizure or confiscation of the reserved goods or any other impairment of the owner's interests therein.
- 4.5 If the country to which the delivery item is to be delivered or to which it is to be shipped imposes special conditions on the validity of the retention of title (such as registration or notarisation), the Customer is obliged to take all possible measures at his own expense and to cooperate in measures necessary to make the retention of title to the delivery item effective and to maintain it.

If the country to which the delivery item is to be delivered or to which it is to be shipped does not permit the retention of title, but does permit the retention of other rights to the delivery item, the Customer shall be obliged to take all possible measures at its own expense and to co-operate in the measures necessary to make effective and maintain another right to the delivery item in place of the retention of title.

5. Dates and deadlines, delivery

- 5.1 Deadlines and dates for delivery are generally non-binding. Dates agreed within the framework of the conclusion of the contract shall only be binding if this has been expressly agreed.
- 5.2 Delivery is ex works (EXW, Incoterms® 2020), unless otherwise agreed. Partial deliveries are permitted in any case.
- 5.3 The prerequisite for the timely delivery of the service is - even if a performance period/deadline has been agreed - the complete and timely fulfilment of all obligations and duties of the Customer to cooperate, such as (i) the timely provision of documents and information for the review of the legal admissibility of the service by us and/or the granting of legally required approvals

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- (e.g. export licences), (ii) the timely provision of the item to be processed in a condition suitable for processing and clarification of all commercial (including price agreements) and technical issues and (iii) the receipt of due payments by the Supplier. Agreed deadlines and dates shall be extended by the duration of (i) any delay in the receipt of due payments, even if the Supplier has not asserted any rights of retention or rights to refuse performance and (ii) any failure by the Customer to fulfil its obligations and duties to cooperate.
- 5.4 In the event of changes or additions to the agreed scope of delivery or services that lead to additional time being required for the provision of services, the deadlines and dates shall change in accordance with the additional time required. The same shall apply (i) in the event of unforeseen conditions and requirements imposed by authorities and/or (ii) in the case of services for a ship/shipbuilding for unforeseen conditions and requirements imposed by the classification society.
- 5.5 The occurrence of a delay in delivery shall be determined in accordance with the statutory provisions but shall in any case require a prior reminder by the Purchaser. The Supplier shall not be responsible for delays due to force majeure and other circumstances beyond the Supplier's control, such as labour disputes, machine breakdowns, bottlenecks in the supply of raw materials, sovereign measures, insolvency or filing for insolvency of a subcontractor or sub-supplier and traffic disruptions, regardless of whether they have occurred at the Supplier or its suppliers. If the aforementioned circumstances lead to the impossibility of performance, this shall completely release the Supplier from its obligations under the contract. In the case of services for a ship/shipbuilding, this shall also apply to delays caused by measures taken based on the International Ship and Port Facility Security Code ("ISPS Code").
- 5.6 If the Supplier is in default with the completion of the services, the Purchaser may claim compensation for default in the amount of 0.5% of the contract price per full week of default, but no more than 5% of the contract price, while maintaining the contract. This limitation shall not apply if the delay is due to gross negligence (intent or gross negligence) on the part of the Supplier. The Supplier reserves the right to prove that the Purchaser has suffered no loss at all or only a lesser loss than the above lump sum. This shall not affect the Purchaser's right to withdraw from the contract or to claim damages for non-performance if the statutory requirements are met.
- 6. Transfer, offsetting and retention**
- 6.1 Without the prior consent (authorisation) of the Supplier, the Purchaser shall not be entitled to transfer claims and rights against the Supplier in whole or in part to third parties.
- 6.2 Offsetting by the Customer with counterclaims against the Supplier is only permissible if these claims have been legally established, recognised or are undisputed.
- 6.3 The Purchaser may only withhold payments due to any counterclaims from previous transactions or other transactions in an ongoing business relationship with the Supplier if these claims have been legally established, recognised or are undisputed.
- 7. Defects**
- 7.1 The basis of the Supplier's liability for material defects is the agreement made in detail regarding the quality and intended use of the goods. Insofar as a quality has not been agreed, § 434 para. 3 BGB shall apply.
- 7.2 The Supplier warrants to the Purchaser that the delivery item is free of defects in accordance with the respective recognised rules of technology at the time of transfer of risk for twelve (12) months from commissioning, but for no longer than eighteen (18) months after notification of readiness for dispatch. Claims for defects for spare parts sold shall become time-barred twelve (12) months after delivery. Clause 7.1 shall not apply to claims against the Supplier due to a defect in the cases of § 438 para. 1 no. 2 BGB and § 634a para. 1 no. 2 BGB.
- 7.3 The Customer must inspect the delivery items immediately after delivery and report any defects in writing without delay. Defects that only become apparent later must be reported in writing by the Customer immediately after discovery. The Purchaser shall only be entitled to withhold payments due to defects if the defects have been legally established, recognised or are undisputed. The Supplier shall be given the opportunity to remedy the defect within a reasonable period of time.
- 7.4 In the case of subsequent fulfilment, the supplier shall - at his discretion - either deliver or manufacture the delivery item again to remedy the defect or replace the delivery item in his factory or at the original delivery or place of performance. Replaced parts shall become the property of the Supplier.
- 7.5 To remedy the defect, the Purchaser shall grant the Supplier access to the defective delivery items, as well as any necessary disassembly and assembly, at no cost to the Supplier. If the disassembly of the defective item and the installation or attachment of the repaired or delivered defect-free item is carried out by the Supplier, the Purchaser shall reimburse the Supplier for the necessary expenses. Rejected deliveries are to be returned to the Supplier at his request and at the Purchaser's expense. Otherwise, the Supplier shall bear the costs for the subsequent fulfilment carried out by him.
- 7.6 The Customer's warranty rights are excluded in the event of defects or damage due to natural wear and tear or external influences, improper handling, disregard of the operating or maintenance instructions, use of force, misuse of the delivery item, use of the delivery item under unusual operating conditions or operating conditions not provided for in the contract. § Section 442 (1) BGB and Section 640 (3) BGB shall apply.
- 7.7 Costs incurred by the Supplier due to an unjustifiably asserted notice of defects by the Purchaser shall be reimbursed by the Purchaser. The deployment of personnel shall be charged by the Supplier at the usual hourly rates.
- 7.8 If the Customer is a Consumer, the statutory warranty regulations shall apply.
- 8. Liability of the Supplier**
- 8.1 The Supplier shall only be liable for damage caused by (a) a breach of the provisions of the Product Liability Act or (b) an intentional or grossly negligent breach of contractual or statutory obligations by one of its legal representatives or vicarious agents or (c) injury to life, limb or health due to a breach of a contractual or statutory obligation by a legal representative or vicarious agent of the Supplier or (d) a breach of a guarantee assumed for the existence of a property or the fraudulent concealment of a property, injury to life, body or health due to the breach of a contractual or statutory obligation by a legal representative or vicarious agent of the Supplier or (e) a breach of a guarantee assumed for the existence of a property or the fraudulent concealment of a material defect by the Supplier or (f) a culpable breach of material contractual obligations. Material contractual obligations are those obligations whose fulfilment makes the proper performance of the main obligation incumbent on the Supplier possible in the first place and on whose fulfilment the Customer regularly relies on and may rely. The Supplier does not assume any warranty for the granting of necessary export licences.
- 8.2 Notwithstanding clause 8.1, the Supplier shall not be liable for damage caused by one of its vicarious agents if and to the extent that the Purchaser can satisfy itself through its own monitoring that the vicarious agent complies with the due diligence requirements.
- 8.3 The Supplier's liability shall be limited to the foreseeable damage typical for the contract. This shall not apply if a claim for damages by the Purchaser is based on (a) a breach of the provisions under the Product Liability Act (b) an intentional or grossly negligent breach of contractual or statutory obligations or (c) injury to life, limb or health or (d) the breach of a guarantee assumed for the existence of a characteristic or fraudulent concealment of a material defect by the Supplier. Typical for the contract and foreseeable is the damage, the occurrence of which is to be expected precisely on the basis of the breach of the respective material contractual obligation (Clause 8.1) is typically to be expected.
- 8.4 The regulations in Sections 8.1 to 8.3 do not change the distribution of the burden of proof and also apply in favour of the Supplier's legal representatives and vicarious agents.
- 9. Property rights and rights of use**
- 9.1 Unless otherwise agreed, the supplier is obliged to provide the delivery/services free of industrial property rights and copyrights of third parties at the place of delivery. Each contracting party shall immediately notify the other contracting party in writing if claims are asserted against it due to the infringement of industrial property rights or copyrights. If the delivery item infringes an industrial property right or copyright of a third party, the Supplier shall be entitled, at its discretion, either to modify or replace the delivery item at its own expense in such a way that Fritter's rights are no longer infringed, but the delivery item continues to fulfil the contractually agreed functions, or to procure the right of use for the Customer by concluding a licence agreement with the third party. Clause 8 shall apply to any claims for damages by the Customer.
- 9.2 Insofar as software is included in the scope of delivery, the Customer shall be granted a simple right, unlimited in time, to use the delivered software including its documentation. Software and associated documentation shall be provided for exclusive use on the delivery item intended for this purpose.

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- 9.3 The Customer is only authorised to reproduce the software insofar as this is necessary for loading, displaying, running, transferring or saving the software. The Customer is not authorised to modify the software or to reproduce the results obtained. However, the Purchaser does not require the Supplier's consent for any reproduction of the code or translation of the code form which is essential in order to obtain the information required to establish the interoperability of independently created software with other programmes, subject to the requirements of Section 69e (1) of the German Copyright Act (UrhG). The Purchaser undertakes not to remove manufacturer's details (in particular copyright notices) or to change them without the prior written consent of the Supplier.
- 9.4 The Purchaser may only sell/transfer the right to use the software granted to him to a third party together with the associated delivery item. If he transfers his right of use, he may not retain any copies of the software and must agree with the Purchaser/Acquirer that the latter may only sell/transfer the right of use together with the associated delivery item.

10. Reservation of fulfilment and special right of termination of the supplier

- 10.1 The fulfilment of the contract by the Supplier is subject to the proviso that the deliveries and/or services are permissible under national and international export control regulations, that any necessary export licence is granted, that there are no embargoes and/or other sanctions to the contrary and that the Purchaser provides the documents required to verify the exportability of the agreed service and/or the granting of an export licence (such as an end-use certificate).
- 10.2 The Purchaser is obliged to provide the documents required for the issue of an export licence and/or verification of eligibility for approval in good time prior to delivery. The Supplier shall be entitled to terminate the contract if (i) a required export licence is not granted, (ii) it cannot be granted due to the Purchaser's failure to provide documents and/or (iii) the Purchaser fails to provide the documents required for a licence (in particular the end-use certificate) even after expiry of a reasonable deadline set by the Supplier under threat of termination in the event of fruitless expiry.
- 10.3 If the supplier cancels the contract in accordance with clause 10.2 the Supplier may demand from the Purchaser a part of the remuneration corresponding to the work performed and reimbursement of expenses not included in the remuneration.
- 10.4 If the subject of the contract is a customer-specific special procurement/special construction, the following shall be deemed expenses within the meaning of clause 10.3 shall also include the costs of goods procured or ordered by the supplier of a third party (e.g. sub-supplier). Reimbursements granted to the Supplier by the third party shall be deducted from the Supplier's claim. The Supplier must state in the invoice whether and to what extent it has been granted reimbursements in detail.
- 10.5 If the customer resells the delivery item, he shall be responsible for compliance with foreign trade regulations.

11 Transfer of risk and acceptance

- 11.1 The transfer of risk shall take place in the case of delivery ex works (clause 5.2) upon provision of the delivery item, otherwise in accordance with the statutory provisions. In the case of partial deliveries, the above shall apply accordingly regarding the partial delivery made.
- 11.2 In the case of services that are not merely ancillary to the delivery and include the production of a work, the risk shall pass upon acceptance of the work or if the customer is in default of acceptance. Acceptance must take place immediately after notification of completion of the work or on the agreed acceptance date. The customer may not refuse acceptance due to insignificant defects. The services shall be deemed to have been accepted if more than fourteen (14) days have passed since the notification of completion to the customer or since the agreed acceptance date, the customer has had the opportunity to test the services for their functionality and the customer has not accepted the services although he is obliged to do so.
- 11.3 Unless otherwise agreed, the obligation to accept a purchased item by the customer is the main contractual obligation.

12 Place of jurisdiction and applicable law

- 12.1 If the Purchaser is a merchant, a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship - including those arising from documents, bills of exchange or cheques - shall be the Supplier's registered office. However, the Supplier remains entitled - at its discretion - to sue the Purchaser before the courts having jurisdiction for its place of business. Any mandatory statutory places of jurisdiction shall remain unaffected by this.

- 12.2 The German law of the Federal Republic of Germany shall apply to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

13. Ineffectiveness

If individual provisions of the concluded contract or these terms and conditions are or become invalid, this shall not affect the validity of the remaining provisions of the contract and these terms and conditions.

Remark:

These terms and conditions have been drawn up in the German language. Any English translation is made available for reading purposes only and the German version prevails in case of any discrepancies in the wording.

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