

General Terms and Conditions of Sale of the Biedermann Motech GmbH&Co. KG company



§ 1 Application

- (1) These terms and conditions of sale shall apply exclusively. Differing or contrary terms shall not apply except if expressly agreed upon in writing.
- (2) These terms and conditions of sale shall also govern all future transactions between the parties and shall also apply if we perform delivery despite our knowledge of differing or contrary terms.
- (3) These terms and conditions of sale shall only apply vis á vis entrepreneurs, governmental entities, or special governmental estates within the meaning of sec. 310 para. 1 BGB (German Civil Code).

§ 2 Offer, Acceptance

Insofar as the order constitutes an offer within the meaning of § 145 BGB we are entitled to accept the offer within two weeks.

§ 3 Prices, Payment

- (1) Prices are ex works, exclusive of the respective statutory VAT and exclusive of costs for packaging, except as otherwise expressly agreed upon.
- (2) The purchase price is due and payable net within 30 days from the date of the invoice. From the due date default interest in the amount of 8 % above the respective base interest rate p. a. shall accrue. We reserve all rights to claim further damages for delay.

§ 4 Blanket orders

If blanket orders have not been completely called by the buyer after one year calculated from the date of the order confirmation, we are entitled to carry out the entire delivery and/or invoicing without special prior notice.

§ 5 Offset, Retainer

The purchaser shall be entitled to offset only insofar as the purchaser's counterclaim is acknowledged, undisputed or assessed in a legally binding judgement. The purchaser is entitled to claim retainer rights only to the extent such rights are based on the same transaction.

§ 6 Delivery

(1) Delivery is conditioned upon timely and proper performance of all duties of the purchaser. Defenses based on non-performance of the contract are reserved.

(2) In case of default in acceptance or other breach of duties to cooperate by the purchaser we are entitled to claim any resulting damage including but not limited to additional expenses, if any. Further damages are reserved. In this case, the risk of loss or damage to the goods passes to the purchaser at the time of such default or breach of duty to cooperate.

§ 7 Passing of Risk, Shipment

If the purchaser demands shipment of the goods the risk of loss or damage to the goods passes to the purchaser upon dispatch.

§ 8 Retention of Title

(1) We retain title to the goods until receipt of all payments in full. In case of breach of contract by the purchaser including, without limitation, default in payment, we are entitled to take possession of the goods.

(2) The purchaser shall handle the goods with due care, maintain suitable insurance for the goods and, to the extent necessary, service and maintain the goods.

(3) As long as the purchase price has not been completely paid, the purchaser shall immediately inform us in writing if the goods become subject to rights of third persons or other encumbrances.

(4) The purchaser may resell goods subject to the above retention of title only in the course of his regular business. For this case, the purchaser hereby assigns all claims arising out of such resale, whether the goods have been processed or not, to us. Notwithstanding our right to claim direct payment the purchaser shall be entitled to receive the payment on the assigned claims. To this end, we agree to not demand payment on the assigned claims to the extent the purchaser complies with all his obligations for payment and does not become subject to an application for insolvency or similar proceedings or to any stay of payments.

(5) Insofar as the above securities exceed the secured claim by more than 10 %, we are obligated, upon our election, to release such securities upon the purchaser's request.

§ 9 Warranty

(1) Precondition for any warranty claim of the purchaser is the purchaser's full compliance with all requirements regarding inspection and objection established by sec. 377 HGB (German Commercial Code).

(2) Warranty claims shall be time-barred after 12 months of the passage of risk.

(3) In case of non-conformity of the goods the purchaser is entitled to alternative performance in the form of subsequent improvement or delivery of conforming goods. If such alternative performance has failed, the purchaser is entitled to reduce the purchase price or to withdraw from the contract.

§ 10 Liability

(1) We shall not be liable for any failure or delay in performing our obligations under the contract to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond our reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving our own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics, pandemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

(2) In case of intent or gross negligence on our part or by our agents or assistants in performance we are liable according to the provisions of applicable law; the same applies in case of breach of fundamental contract obligations. To the extent the breach of contract is unintentionally our liability for damages shall be limited to the typically predictable damage.

(3) Our liability for culpable damage to life, body or health as well as our liability under the Product Liability Act shall remain unaffected.

(4) Any liability not expressly provided for above shall be disclaimed.

§ 11 Applicable law, Jurisdiction

(1) This contract shall be governed by the laws of the Federal Republic of Germany (excluding the Convention on Contracts for the International Sale of Goods).

(2) Place of performance and – if the purchaser is a merchant in the meaning of the German Commercial Code (HGB) - exclusive place of jurisdiction for all disputes arising out of or in connection with this contract shall be Villingen-Schwenningen.

(3) This text shall be governed by and construed in accordance with the laws of Germany. It shall be executed in both the German and the English language. In the event of any inconsistency between the German and the English version the German version shall prevail.