

## General Conditions of Sale

### I. Entry into contract

1. These General Terms and Conditions apply to all - including future - contracts, deliveries and other services where we are the seller or the contractor. By placing an order, our customer declares itself in agreement with these Terms and Conditions. If the supplier only based on its own Purchasing Terms and Conditions confirms the order placed by our customer, then the latter are hereby objected to. Our Terms and Conditions are deemed to have been accepted at the latest upon accepting delivery of our goods or upon dispatch approval.
2. Our employees, insofar as they are not organs of the company, procurists or authorized agents, are not authorized to make binding declarations on our behalf.
3. Information such as dimensions, weights, pictures, assembly sketches in product catalogues and other printed materials are only approximate, but have been ascertained in the best possible manner.
4. Any modifications to contract terms agreed in writing also require the written form.
5. Orders placed by the customer only become binding after our written order confirmation. We can validly give the order confirmation within four weeks after receipt of the order. The order confirmation can also be given in the form of an invoice or a delivery note.

### II. Oral supplementary agreements

Oral supplementary agreements as well as any modifications or additions to a contract require our express written confirmation in order to be valid.

### III. Prices and payment

1. We are bound by the confirmed prices for 3 months from the date the contract comes into existence. For deliveries after that point in time, we are entitled to increase the prices in accordance with the wage, administration and materials purchasing costs, which have changed since the last price determination. Insofar as the price difference is greater than 10% of the confirmed price, the customer is entitled to rescind the contract for the parts of the performance, which have not already been rendered.
2. Section III.1 applies correspondingly if our purchase prices increase due to foreign exchange rate changes.
3. VAT in the amount prescribed by law on the date of the invoicing will be added to the prices.
4. The invoice amount is due without deduction of discounts 30 days after invoicing. If payment is made within 8 days after the invoice date, 2% discount can be deducted.

5. In the event of default in payment, default interest in the statutory amount can be charged. We hereby reserve the right to claim compensation for other default loss.
6. Payment by bill of exchange or cheque is only conditional payment. Acceptance of the same is not to be regarded as deferral of the purchase price. Liability of the contractor for timely presentation, dishonor, notification or return in the case of non-redemption is hereby excluded.
7. Set-off or withholding payment is only permissible based on counter-claims which are undisputed by us or which have been determined in a final and legally binding manner.
8. The customer does not acquire any right in a tool by paying a portion of the costs of tools.
9. The customer is not entitled to transfer claims arising under this contract to third parties.

## **IV. Product qualities and quantities**

1. Product qualities, particularly quality and material properties (e.g. plastic), are initially determined in accordance with our respectively valid technical specifications; should there be no such specifications, then in accordance with DIN norms valid when the contract is entered into. Insofar as there are no DIN norms, the corresponding Euro norms applicable when the contract is entered into apply, and in the absence of these, established commercial practice applies.
2. Insofar as nothing to the contrary is agreed upon, we are obliged to make the delivery free from third-party intellectual property rights and copyright only in the country of the delivery location.
3. The piece numbers to be delivered are determined through weighing, insofar as the delivery products are mass-produced articles or bulk commodities. Minor excess deliveries or shortfalls caused thereby are irrelevant; this is deemed to be complete performance nevertheless. The customer does not derive any rights therefrom.
4. For special orders, we hereby reserve the right to make an excess or shortfall delivery of up to 10% of the quantity ordered.
5. BJB products are components for installation by our customers into electrical equipment, such as luminaries or domestic appliances.

## **V. Right of rescission in the event of inability to perform**

1. We are entitled to rescind the contract if despite entering into coverage transactions in a timely manner we ourselves are not supplied correctly or in a timely manner and other coverage purchases are unreasonable or have failed or if we or our suppliers are unable to make timely delivery for reasons which have arisen since entering into the contract or were unknown to us and are not in our sphere of influence, such as strike, lock-out, non-culpable business shutdowns, including at our suppliers (e.g. tool breakages), supply blockades, plant closures, refusal of import or export licenses, other acts of

state and circumstances going beyond these, which are to be regarded as force majeure. Therefore, we assume no procurement risk.

2. We undertake to inform the customer without undue delay of the non-availability and to refund without undue delay the consideration rendered by the customer.

## **VI. Right of rescission, etc. in the event of default in payment and deterioration of financial position**

1. We are entitled to rescind the contract or in accordance with our discretion to only effect deliveries in return for payments made in advance if the customer is in default with fulfilment of the payment obligations owed by it to us, if its bills of exchange or cheques are not honored, or if during the term of the contract its financial circumstances significantly deteriorate, which would respectively lead to the consequence that the fulfilment of the customer's obligations arising from the commercial transaction in the manner of a prudent, proper businessperson was no longer to be expected.

2. In the event of a default in payment, all of our other claims will become due immediately. In these cases, we are also entitled to demand cash payment in advance for further (partial) deliveries and to withdraw immediately from circulation, all circulating acceptances, bills of exchange and cheques - with the costs arising therefrom to be borne by the customer - and to demand cash payment for the same.

## **VII. Delivery period, bearing of risk and packaging disposal**

1. If no transaction with a fixed date has been agreed to, but a delivery period is indicated in our offer or our order confirmation, this period can be exceeded by one week. Before bringing a claim for compensation based on non-performance, a reasonable final supplementary period for performance must be set. The delivery period is prolonged by the period during which delivery obstacles, which arise due to the causes, named in section V. hereof exist. If such an obstacle exists for longer than 3 months, we have the right to rescind the contract without thereby becoming liable to pay damages for the same. It remains the customer's decision whether or not to exercise the rights to which it is entitled.

2. Risk passes to the customer at the latest upon dispatch of the goods, even if partial deliveries are being effected or if we have agreed to perform other services as well, e.g. shipping expenses or transport. Upon the customer's written request, the consignment will be insured by us at the customer's expense against theft, breakage, transport damage, fire and water damage, as well as against other insurable risks.

3. If the shipment is delayed because of circumstances for which the customer is responsible, then the risk and storage costs are transferred to the customer from the day the shipment was ready; however, we are obliged upon the customer's request and at its expense to obtain the insurance so requested by it. If the delivery is delayed for more than 4 weeks for the reasons for which the customer is responsible, we are entitled to rescind the contract and to assert the statutory claims.

4. Delivered goods are to be accepted by the customer regardless of the rights arising in section VIII. Hereof, even if these goods have insignificant defects.

5. Partial deliveries are permissible.

6. When the net value per shipment is:

- above EUR 800, the goods are delivered as freight paid to a German receiving station including packaging,
- below EUR 800, 2% is added for packaging, and the customer will be invoiced for delivery costs, to a German receiving station,
- below EUR 100, EUR 25 is charged as a packaging, postage and handling fee.

7. The customer hereby undertakes to properly classify and then arrange for disposal and/or recycling of the packaging at its own responsibility and cost pursuant to § 5.3 and § 6 of the German Waste Recycling and Management Act (Krw-/AbfG).

## **VIII. Notification of defects, claims based on defects and compensation due to breach of obligation**

1. The customer must inspect the goods immediately after receiving them and, if a defect is found, must notify us in writing without undue delay. Otherwise, the goods are deemed to have been accepted, insofar as a defect, which capable of being identified during proper inspection is concerned. The same applies when the customer does not carry out an agreed acceptance, or does not carry it out completely or in a timely manner. If a defect subsequently appears, this fact must be notified after discovery without undue delay. Later notifications of defects are hereby excluded.

2. Insofar as there is a defect and this has been complained about in a timely manner, we are entitled to effect subsequent performance in the form of defect rectification or to supply a flawless item within a reasonable period, as we choose. If the subsequent performance is unsuccessful or is unreasonable for the customer, then the customer is entitled to rescind the contract or to demand reduction of the remuneration (reduction). However, in the case of a contract breach which is only minor, particularly in the case of only minor defects, the customer is not entitled to any rescission right. We can refuse to effect subsequent performance if it is associated with disproportionate costs. In addition, the statutory provisions regarding subsequent performance shall apply.

3. Insofar as nothing is stipulated to the contrary in sections VIII.2, VIII.5 and/or VIII.6 hereof, claims of the customer based on material defects or defects in title - for whatever legal reason - are hereby excluded. We are not liable for damage, which has not occurred to the delivery object itself. In particular, we are not liable for loss of profits or other pecuniary loss suffered by the customer in this respect.

4. Insofar as nothing is stipulated to the contrary in sections VIII.5 and/or VIII.6 hereof, claims of the customer due to breach of an obligation arising from contractual obligations are hereby excluded.

5. The foregoing no-liability declarations (sections VIII.3 and VIII.4 hereof) do not apply in circumstances where we are compulsorily liable, for example (1) pursuant to the German Product Liability Act, (2) due to loss of life, personal injury or damage to health which is attributable to a negligent or intentional breach of obligation by us or one of our legal representatives or one of our agents, (3) if the cause of damage or loss was due to intentional behavior or gross negligence by us or one of our legal representatives or one of our vicarious agents, (4) if the customer asserts rights based on a defect arising from a warranty regarding the product qualities or the particular duration of a product quality, (5) we negligently breach a fundamental contractual obligation whose fulfilment is what makes the due performance of the contract possible at all and whose fulfilment may be usually relied upon by the contract partner (cardinal obligation), (6) recourse claims in the delivery chain (pursuant to § 445a of the BGB) are involved.

6. If we negligently breach a cardinal obligation, our obligation to pay damages is limited to the contract-typical, foreseeable loss, if no intentional or grossly negligent behavior is involved, and/or we are not liable due to loss of life, personal injury or damage to health.

7. If we have effected a partial delivery, the customer can only rescind the entire contract if it no longer has an interest in the part-performance. For successive delivery contracts, the customer's rights are limited to each respective partial delivery.

8. In the case of the elimination of a defect or replacement delivery (subsequent performance), sections VII.1 and VIII.2 apply correspondingly.

9. We can refuse to carry out the elimination of defects, as long as the customer has not paid for the portion of the delivery, which has not been objected to.

10. No claims against us exist based on loss for which the customer is responsible. The customer is particularly responsible for damage and loss, which occurs due to the following reasons:

- defective assembly or installation by the customer or a third party,
- chemical corrosion and radiation (UV light) on synthetic and metal parts,
- incorrect ordering data and ordering standards in relation to the intended use,
- exceeding established reference values (e.g. voltage, current, operating temperature, firing voltage),
- natural wear and tear,
- improper or negligent handling, use of unsuitable means operating materials or replacement tools and materials, chemical or electrochemical influences, insofar as the same is not attributable to fault on our part.

11. All claims brought against us based on a material defect or a defect in title become time-barred 12 months after the legal commencement of the warranty, unless the German Product Liability Act or

another Act, particularly § 431 paragraph 1, number 2 of the BGB (construction and items for construction), § 445b of the BGB (recourse claims in the delivery chain) or § 634a paragraph 1, number 2 of the BGB (building defects), prescribes a longer limitation period. The time-barring of claims based on liability for damage or loss arising out of the loss of life, personal injury or damage to health which occurs due to a negligent or intentional breach of obligation by us or one of our legal representatives or vicarious agents, and for other damage or loss which is due to an intentional or grossly negligent breach of obligation by us or one of our legal representatives or vicarious agents, shall be determined pursuant to the statutory provisions.

## IX. Retention of title

1. We retain title to all goods we deliver until the customer has paid all debts (including future ones) arising from the business relationship. This also applies when some of our claims are taken into a running account as payment and the balance is calculated; the retention of title then pertains to the respective account balance claim. The delivery of bills of exchange and cheques does not count as payment as long as the negotiable instrument has not been redeemed.
2. Subject to section IX.3. Hereof, in the framework of the ordinary course of business, the customer is entitled to sell to third parties the goods to which the contractor retains title. If the third-party purchaser is allowed time for payment, the customer is obliged to retain title on the same conditions as those set out above. The customer hereby assigns to the contractor the purchase price claims to which the former is entitled from the resale. In the event of resale together with goods from a third party, this assignment is only valid for value of the goods at the time of the resale. The assignment takes place provisionally without notification; however, the vendor has to the right to collect the debts itself as soon as the customer does not comply properly with its payment obligations. The customer has to inform the purchaser of the assignment upon request by the vendor and give the latter all information necessary and useful for enforcing the transferred claims.
3. The customer only has the right to resell the goods to which the vendor retains title when it is ensured that the claim arising from this sale contract passes to the vendor. Therefore, resale may not take place in the framework of a current account relationship, nor may the assignability of claims from the resale be excluded with the purchaser.
4. If the value of the securities, which exist for us, exceeds that of our claims by more than 20% in total, we are obliged in this respect, upon the customer's request, to release part of the securities in accordance with our discretion; however, only fully paid deliveries require to be released from the goods to which we retain title.
5. The customer is obliged to take out reasonable insurance policies concerning goods to which the contractor retains title, against all usual risks, particularly fire, burglary and water hazards and to handle

and store the goods with care. Insurance claims arising in the event of damage shall be assigned to the vendor.

6. In the event of levy or attachment of the goods and/or assigned claim by a third party, the contractor is to be notified in writing without undue delay, including the forwarding of a copy of the bailiff's record.

## **X. Rendering of services**

In cases where we render only services, the German Civil Code's provisions governing the rendering of services shall apply thereto, on the condition that these General Terms and Conditions of Sale apply correspondingly.

## **XI. Final provisions**

1. This contract is exclusively governed by substantive German law, and the application of the UN Convention on Contracts for the International Sale of Goods (CISG) is hereby excluded. The place of performance for the obligations arising under this contract is Arnsberg, Germany.

2. The courts of Arnsberg, Germany shall have jurisdiction locally and internationally for all disputes arising out of this contract

a) if the other party is a businessperson or legal entity under public law or a public-law special asset,

b) if the other party has no general legal domicile (residence, headquarters or usual domicile) within the Federal Republic of Germany, or

c) if after entering into the contract, this party relocates its residence or usual domicile out of the area of the Federal Republic of Germany or its residence or usual domicile is not known at the time the lawsuit is filed.

3. The statutory provisions apply to default actions and summary proceedings for the recovery of debts.

4. Should a provision of these General Terms and Conditions of sale and the other agreements entered into be or become invalid, then the validity of the rest of the contract shall remain unaffected thereby.

The contractual parties are obliged to replace the invalid provision with one, which comes as closest as possible to the economic effect of the invalid one.

**January 2018, BJB GmbH & Co. KG, Arnsberg/Germany**