

General Terms and Conditions of Business for supplies and services including assembly work by BATEC Sicherheitsanlagen GmbH & Co. KG

1. Acknowledgement of the General Terms and Conditions of Business

1.1 All agreements and offers are based on our terms and conditions; at the latest when an order is placed or delivery / performance is accepted they are regarded as having been acknowledged. Deviant terms and conditions of the purchaser that we have not explicitly acknowledged in writing have no binding effect on us, even if we have not explicitly contradicted them.

1.2 These terms and conditions also apply to future legal transactions without having to be agreed on again separately. In case of doubt, individual agreements that differ from these terms and conditions apply only to the specific legal transaction for which they were explicitly agreed in writing.

2. Offer

1.1 Our offers are subject to change.

1.2 The documents belonging to the offer, such as photos, drawings, weights, dimensions are considered only approximate unless they have been explicitly termed binding. We reserve proprietary rights and copyrights on cost estimates, drawings and other documents. They may not be made available to third parties.

3. Orders

Orders do not become effective until they have been confirmed in writing. Our order confirmation is relevant for the scope of supply / performance. Auxiliary agreements and modifications require our written confirmation.

4. Delivery and performance

4.1 Partial deliveries and partial performance are admissible

4.2 Delivery and performance periods begin when the order confirmation is dispatched. These periods are considered met if the goods have left our factory by the time the respective period expires or, in the case of an obligation to fetch the goods when notification has been given that the goods are ready for dispatch, or - if the place of performance is the debtor's residence or place of business - that performance has been rendered.

4.3 The period of delivery and performance is extended appropriately if unanticipated obstacles arise that we are unable to avoid despite exercising due care. We shall inform the purchaser immediately of such obstacles.

4.4 If the aforementioned circumstances make it impossible to carry out the delivery / performance, we shall be released from our obligation without the purchaser acquiring any right to compensation or cancellation.

If the aforementioned circumstances occur to the purchaser, the same legal consequences also apply to the purchaser's obligation to purchase.

4.5 If delivery or performance is delayed at the request of the purchaser, or if it is delayed for reasons for which the purchaser is responsible, the latter is under obligation to pay the costs arising from the delay (such as storage costs).

4.6 Meeting the delivery and performance deadline is dependent on the purchaser meeting his contract duties.

5. Transfer of risk, dispatch and carriage

5.1 We dispatch goods on account and at the risk of the purchaser. If the goods are sent to the purchaser at the latter's request, when it is delivered to the appointed carrier and at the latest when it leaves the factory, the risk of accidental destruction and accidental deterioration of the goods passes to the purchaser irrespective of whether they are dispatched from the place of performance and who is bearing the costs of carriage. If the goods are ready for dispatch and dispatch is delayed, or acceptance is delayed for reasons beyond our control, the risk passes to the purchaser when notification that the goods are ready for dispatch reaches the purchaser.

5.2 The risk passes to the purchaser in exactly the same way as described above in the case of partial deliveries.

6. Prices

6.1 The prices are in euros and apply ex-works, exclusive of packaging, carriage costs and insurance. In the case of performance to be rendered, travel expenses are not included. VAT at the statutory rate is added to the prices.

6.2 When calculating our prices we assume that we will deliver/render performance within 4 months of the order being placed. If delivery / performance takes place at a later date, we reserve the right to charge the purchaser any wage increases, including increases in incidental wage costs as well as increases in material prices, carriage and other higher costs for third party services that have arisen since the order was placed. If this causes the agreed price to rise more than 25%, the purchaser has the right to cancel the contract.

7. Terms of payment

7.1 Invoices must be paid within 14 days following the date of invoice at a 2% discount for early payment or within 30 days net.

7.2 Payment periods are considered met if we are able to dispose of the amount within the specified period. At our discretion payments may be set off against other open debts. Set-off or retention of payment on the part of the purchaser is excluded unless set-off or the demand for retention of payment is undisputed or has been legally finalised.

7.3 Cheques and - if a bill of exchange has been agreed - bills of exchange are accepted on account of payment. Discounts and collecting charges and interest must be paid to us immediately.

If the orderer falls into arrears with his obligation to pay in whole or in part - irrespective of all other rights - from this time on interest must be paid on arrears in the amount of 5% p.a. above the base interest rate of the European Central Bank, unless we can prove that higher losses have been incurred.

7.4 If after the contract has been signed circumstances come to light that are liable to reduce the purchaser's ability to pay and/or creditworthiness, then all debts payable shall fall due immediately, irrespective of the term of any bills of exchange taken on deposit. Furthermore, such circumstances give us the right to perform outstanding deliveries only against advance payment or if security is provided and to cancel the contract after an appropriate period of grace expires, or to demand compensation for loss owing to non-fulfilment.

8. Retention of title to ownership

8.1 The goods remain our property until all claims on the purchaser to which we are entitled (goods subject to the retention of title to ownership) have been met, even if individual goods have been paid for. It is not permissible to pledge or to transfer goods subject to the retention of title to ownership by way of security.

8.2 If the goods subject to the right of retention of title to ownership are resold or hired out, which is permissible in the course of normal business operations, by way of security the purchaser hereby assigns to us his future accounts receivable that will arise from the resale or hiring out against his customer until such time as all the purchaser's debts have been paid to us. This does not require any additional special explanations when it arises.

8.3 It is not permissible for the purchaser to pledge or transfer property by way of security.

8.4 If the orderer processes or remodels the goods subject to retention of title to ownership or combines them with other objects, we are entitled to co-ownership of the new object created in proportion to the ratio of the value of the processed, remodelled or combined goods subject to retention of title to ownership to the value of the new object. If the new object is sold or hired out, by way of security the purchaser hereby assigns his claims on his customer from selling or hiring out with all ancillary rights without any necessity for special explanations at a later date. However, assignment only applies in the amount of the sum equivalent to the value of the processed, remodelled or combined goods subject to retention of title to ownership that is invoiced to us.

8.5 If the total value of the securities exceeds our claims on the purchaser from our current business relationship by more than 20%, when so requested, we are under obligation to release securities to which the purchaser is entitled at our discretion.

9. Defects and liability

9.1 If the purchase constitutes a commercial act for both parties, and if it is expedient in normal business, the purchaser must immediately inspect the goods on receipt and inform us immediately if a defect is discovered. This also applies if too much or too little has been delivered or for any other incorrect deliveries.

If after performance has been rendered faults are discovered, the orderer must inform us immediately thereof.

If a fault is found and a complaint has been made in good time, we are entitled to render subsequent performance by rectifying the defect or by delivering an object free of defects at our discretion within an appropriate period. We shall bear the expenses that are necessary for the purpose of subsequent performance. However, if the purchaser moves the goods to a place other than the place of acceptance or if rectification is to be performed outside Germany, the purchaser shall bear the additional costs thus caused. If subsequent performance fails, or is unacceptable to the purchaser, the latter is entitled to cancel the contract or to demand a reduction of the payment. In the case of a minor lack of conformity with the contract, in particular in the case of minor defects, the purchaser is not entitled to cancel the contract.

9.2 If intentional or grossly negligent damage has been caused, we assume liability in accordance with the statutory regulations. In the case of damage due to minor negligence, we shall accept liability only if we have infringed an essential contractual or major duty (within the meaning of Section 28, paragraph 1, sentence 3 German Civil Code). We shall not accept liability on any other account.

Under all of the aforementioned circumstances liability is limited to the scope of any foreseeable, typical type of damage up to a maximum sum of the payment made. The maximum sum that will be paid for liability is restricted to the coverage of our product and business liability insurance (currently: 5,000,000 EUR for injury to persons and material damage, 100,000 EUR for economic loss). We shall accept no liability for loss of profit or for the consequential damage of defects. The above does not apply in the case of deliberate action. This is without prejudice to the compulsory statutory liability for damage arising from injury to life, from physical injury or damage to health.

9.3 The purchaser undertakes the obligation to indemnify us of any claims by third parties from the point of view of product liability, unless we act deliberately or have infringed important contractual duties towards the purchaser.

9.4 These restrictions on liability also apply to all other claims, irrespective of the legal reasons for which these are asserted against us. It applies in particular if our goods have been moved to a place other than the place of acceptance.

9.5 Claims from defects and claims for compensation of all kinds are statute barred after 12 months from the day the risk transferred to the purchaser.

9.6 In the case of deliveries and performance outside Germany the purchaser assumes responsibility for ensuring that the statutory regulations are observed also with regard to industrial property rights and conformity.

10. Place of performance, legal venue and applicable law

10.1 If the purchaser is a businessman, Olching is the place of performance and the exclusive legal venue is the main place of business of our company.

10.2 German law shall apply. The Hague Convention of 1.7.1964 in respect of uniform laws for international purchase transactions and the United Nations Convention on Contracts for the International Sale of Goods dated 11.4.1980 shall not apply.

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