

General Terms and Conditions
BÖMA Maschinenbau und Automatisierung GmbH
Reute 1153a, A-6861 Alberschwende

1. Scope and legally binding effect:

- 1.1 The following arrangements refer to all orders accepted and executed by us and shall apply from the time the order was issued by our customer, even in case we do not explicitly object to individual contrary terms.
- 1.2 The following arrangements constitute a supplementary part of each contract concluded between us and our customer, unless otherwise provided for in writing (or via fax or signed email) upon entering into a contract. This also applies to changes, amendments and/or deviating commitments. All of them require a duly signed and stamped confirmation in order to be effective.
- 1.3 At the latest by submitting the order to us or by confirming the delivery of the contractual object, our customer declares their agreement with these General Terms of Sale and Delivery and also agrees that these terms apply to all future transactions between our customer and us.

2. Offers and conclusion of the contract

- 2.1 Offers are generally submitted in writing.
- 2.2 The contract is concluded subject to our declaration of acceptance, which is furnished in writing (and also via fax or signed email) in the form of an order confirmation, or upon our actual execution of the order.
- 2.3 We reserve the right to rectify any errors subsequently.
- 2.4 Plans, drawings, technical documents of our company as well as offers and project-related documents and patterns, catalogues – in this case in particular the available catalogue – prospectuses and images are our intellectual property. They may be reclaimed by us at any time and shall be returned immediately, if the conclusion of the contract is unsuccessful.
- 2.5 Any utilisation, reproduction, distribution, publication and presentation is prohibited. This also applies to extracts hereof (see Clause 2.4). Any violations of this provision shall establish claims for damages (Copyright 2002)

3. Performance and delivery periods

- 3.1 Delivery periods begin on the day of order acceptance (order confirmation), yet not before all contractual obligations owed by the customer, particularly such as the agreed opening of a letter of credit or the provision of a payment guarantee, were fulfilled. Our right to reimbursement of expenses resulting from delays on part of our customer shall remain unaffected thereof.
- 3.2 Delivery periods are suspended as long as our customer is in default with regard to the fulfilment of their obligations – also arising from other transactions with us – or in any case until all technical and contractual details were mutually agreed and the legal requirements for the execution of the contract were met.
- 3.3 We are entitled to effect partial deliveries. Each partial delivery is generally considered an independent transaction.
- 3.4 Submitting a notification that we are ready for dispatch is deemed compliance with the delivery period, even if delivery cannot be effected (in time) through no fault of our own or of the supply plant/manufacturer.
- 3.5 We shall not assume any liability in case of delays in delivery due to force majeure events, and we are entitled to a reasonable grace period with regard to the fulfilment of the obligations assumed or to fully or partially withdraw from the contract at our discretion.
- 3.6 Claims for damages or for subsequent deliveries are excluded in such cases. In these cases, our customer is neither entitled to unilaterally withdraw from the order submitted.
- 3.7 In case of an untimely fulfilment on our part, the customer shall in any case grant us an appropriate grace period.

4. Handover and takeover

- 4.1 The transfer of use, risk and contingencies to our customer (place of performance) takes place upon dispatch of the delivery "ex works" Alberschwende, Germany, unless otherwise provided for by agreements concluded in individual cases (in particular relating to INCOTERMS).
- 4.2 We may choose the transport route and means of transport without assuming any liability.

5. Prices

- 5.1 The prices are net without any deduction and are "ex works" without packaging and loading, unless otherwise agreed on.
- 5.2 Additional expenses arising due to our customer choosing a specific shipping method shall in any case be borne by our customer.
- 5.3 Ancillary expenses, such as public charges, customs, levies, import and export taxes and fees shall be borne by our customer, unless otherwise indicated or agreed on.

6. Payment, maturity, consequences of defaults

- 6.1 The place of performance for any payments transferred to us is Alberschwende, Germany.
- 6.2 Payments are net and fall due 30 days from the invoice date without any right of retention or offsetting of any counterclaims not explicitly recognised by us in writing, unless otherwise provided for.
- 6.3 Payments are deemed effected on the day on which we are able to dispose of them in the agreed-on currency.
- 6.4 For euro prices, 1% shall be paid per month in case of payment defaults. All dunning, collection and information expenses, and the expenses incurred by any legal counsel commissioned by us, if applicable, shall be reimbursed.
- 6.5 Payments shall be taken into account with regard to the oldest open claims, for individual claims first with regard to the expenses, then the interest and finally with regard to the capital, unless the payments are explicitly designated.
- 6.6 If the agreed-on terms of payments are not complied with and/or if circumstances occur which put the creditworthiness of our customer into question, we are further entitled to declare all our claims against our customer payable immediately, to withdraw from all pending purchase and/or delivery contracts, as well as to assert claims for damages for non-performance.

7. Retention of title

- 7.1 The sold goods shall remain our property until the purchase price and all accessory claims, particularly interest and expenses, were paid in full. The retention of title also covers new or other products created by processing or connection.
- 7.2 Our customer shall undertake to make a note in their accounts, indicating the retention of title, and to immediately notify us of any third party accessing the reserved goods or of any assigned claims (particularly pledges). The customer shall further notify us of the claims assigned to us in an appropriate manner, and the contractual partner of our customer shall be notified of the aforementioned assignment no later than on the invoice date. In this case, our customer shall inform the third party of our rights and shall reimburse us any and all expenses, including attorney fees, if applicable, required to protect our rights.
- 7.3 *Our customer already now assigns all claims in the amount of the invoice amount to us, which arise from a resale to a third party, and shall undertake to make a corresponding note in their accounts or on their invoices. We hereby accept the assignment. We are entitled to collect the claims after they were assigned. We reserve the right to collect the claims ourselves as soon as the customer no longer meets their payment obligations in an orderly fashion and defaults on payment.*

8. Force majeure

- 8.1 Force majeure events entitle us to delay delivery for the duration of the obstruction and to an appropriate start-up period or to fully or partially withdraw from the contract. Our contractual partner is not entitled to any claims against us due to such circumstances, particularly claims for damages.
- 8.2 Force majeure events refer to strikes, lock-outs, mobilisation, wars, terror attacks, blockades, export and import bans, raw material and fuel shortages, fire, traffic blocks, disruptions of operations or of transportation as well as other circumstances which materially impair the transaction or make it impossible, irrespective of whether the event occurs on our premises, on the premises of the supplier or their subcontractors, of our customer or otherwise in their sphere. Force majeure events also refer to non-delivery or an untimely delivery of our suppliers to us, provided we are not responsible for the cause.

9. Warranty

- 9.1 The warranty period starts at the time of the transfer of risk and has a duration of 1 year.
- 9.2 In our capacity as reseller, we shall only assume a warranty subject to the scope of liability of the manufacturer, supply plant and/or producer. We shall not assume any further guarantees and/or compensation.
- 9.3 The warranty covers explicitly stipulated properties of our products and/or such properties as are ordinarily assumed, yet it does not cover the suitability for specific procedures or purposes of our customer.
- 9.4 Warranty claims shall in any case be voided immediately, if our customer performs repairs to our products without authorisation.
- 9.5 We shall only perform return deliveries subject to an explicit prior agreement, yet always only in the original packaging or in equally secure replacement packaging.

10. Defects

- 10.1 The customer shall examine the goods delivered by us for defects immediately upon delivery, and shall furnish us with a detailed description of the defects without delay. The defects (also hidden defects) shall be indicated in writing (also via fax or signed email) or telegraphically no later than within 5 work days from delivery or from discovery.
- 10.2 In case of any defects, we are entitled to offer the improvement, replacement of missing parts, exchange of the goods or reduction of the price at our discretion. Any further claims against us, particularly the right to conversion, damages and/or a substitute performance are excluded.
- 10.3 Notices of defect shall not be recognised, if the goods are no longer on location or in the condition they were in at the time of dispatch.

11. Liability

- 11.1 We shall only assume any liability for the damage to items of the customer which was incurred immediately within the scope of the performance and which was caused due to gross negligence or intent on our part. All other claims of the contractual partner, particularly for additional damages (in particular in the case of any financial loss), including any consequential damage and lost profit, are excluded.
- 11.2 Claims for damages against us, existing pursuant to mandatory legal provisions based on their merits, shall be limited by the value of the item causing the damage or, if prohibited, by the invoice value or, if in turn prohibited pursuant to the mandatory statutory provisions, by the actual damage, excluding any compensation for unrealised profits and excluding any compensation for consequential, indirect and third party damage.
- 11.3 The goods delivered by us only entail the security which can be typically be expected based on admission requirements, operating instructions and manuals, manufacturer, supply plant and/or producer provisions and other notices.
- 11.4 The customary deviations of quantities, dimensions, form and variations are always reserved and are considered agreed.
- 11.5 If we are commissioned with performing design tasks, we can only be held liable, provided our customer provides proof of our delivery and/or service not corresponding with the general state of the art due to gross culpability.
- 11.6 In case the customer is in violation of the obligations established by these General Terms of Sale and Delivery, as well as in case we assert any claims for damages caused by such products as were introduced by the customer, the customer shall in any case undertake to indemnify us and hold us harmless against any claims (including any attorney and legal fees), without regard to any fault. If our customer paid compensation to a third party due to the provisions of the Product Liability Act because of a product delivered by us, any recourse claims against us are in any case excluded.

12. Product liability

- 12.1 We assume the liability for personal injury and material damage incurred by a customer within the scope of the Product Liability Act. We shall not assume any liability for material damage incurred by one of our customers (commercial or craft businesses) due to our products.
- 12.2 We shall undertake to represent the interests of our customers in a diligent manner in our dealings with the manufacturer; we are, however, obliged to generally refer our customers to the manufacturer(s).
- 12.3 Companies acquiring goods from us shall undertake to independently obtain information on how to handle, operate and maintain our products. They shall in particular explicitly obtain comprehensive information on the corresponding product-specific risk using operating manuals, as well as on the possible applications.
- 12.4 Our customers shall undertake to maintain detailed records of incoming goods in order to be able to ascertain beyond any doubt whether the product was delivered by us. Our customers shall further undertake to store these records for 10 years from the delivery of our product.
- 12.5 In case of any claims arising against us under the Product Liability Act, the customer shall undertake to immediately provide us with all records and other proof without being entitled to any claims for the reimbursement of expenses. Our customers shall further undertake to render any support requested by us.

13. Withdrawal from the contract

- 13.1 We are entitled to withdraw from the contract:
- provided the execution of the delivery or the start or the continuation of the performance is further delayed for reasons the contractual partner is responsible for, or despite a grace period being established.
 - in case the creditworthiness of our customer is put into question and the customer neither effects an advance payment nor provides appropriate collateral despite our request.
- 13.2 The withdrawal may also be declared with regard to an as of yet outstanding part of the delivery and performance for the above reasons.
- 13.3 If insolvency proceedings are initiated with regard to the assets of one of the contractual partners, or if an application for the initiation of insolvency proceedings is rejected due to a lack of assets, the other party is entitled to withdraw from the agreement without setting a grace period.
- 13.4 Irrespective of our claims for damages, any services or partial services of the contract already rendered shall be billed and become payable in case of a withdrawal from the contract. This also applies to any preliminary services already rendered by us and/or to the extent the delivery and performance were not yet accepted by our customer. We shall, however, also have the right to demand the return of any items already delivered.

14. Governing law

- 14.1 Substantive Austrian law as amended at the time of the conclusion of the contract applies to the contract as well as to these General Terms of Sale and Delivery.

15. Mediation clause

- 15.1 For any disputes and/or conflicts arising from or in connection with this contract, or the breach of contract itself, the cancellation or invalidity of the contractual provisions, an attempt at resolving the disputes and/or conflicts amicably shall initially be performed by the parties within the scope of mediation proceedings led by an impartial third party (mediator).
- 15.2 The parties shall enter into an agreement with regard to the process of the proceedings with the mediator within a four-week period starting with the first mention of the conflict (15.1). All deadlines are suspended for the duration of the proceedings, and the parties shall keep any information related hereto strictly confidential.
- 15.3 In case no agreement can be reached through mediation within four weeks, or if the mediation proceedings are completed unsuccessfully, the parties shall handle all disputes related to these proceedings in accordance with the following provisions.

16. Place of jurisdiction (applying to our customers within the EU):

- 16.1 The place of jurisdiction is the competent court in Feldkirch, Austria.

17. Other provisions

- 17.1 Should any individual provisions of the contract or of these General Terms be fully or partially ineffective, the effectiveness of the remaining provisions shall remain unaffected thereof. In case a provision is partially ineffective, our customer shall undertake to consult with us to jointly replace the ineffective provisions with such provisions as most closely correspond to the purpose of the ineffective provision.