

TERMS OF SALE AND DELIVERY

B.S. Belüftungs-GmbH

1. Scope

The following terms apply exclusively to all, including future, offers submitted by us as well as to all current and future contracts concluded with us. Customer terms which deviate from these terms shall only apply if confirmed by us in writing.

2. Conclusion of contract

- 2.1 All our offers, including but not limited to those in catalogues, sales materials and on the internet, shall be without obligation. Legally such offers shall be deemed as invitations to treat.
- 2.2 Orders shall be deemed to be accepted if confirmed by us in writing or text form or if such orders are performed on schedule or immediately following receipt of the order.
- 2.3 All prices are quoted in Euros as net prices to which currently valid statutory value-added tax shall be added, ex works and are exclusive of customs, border, insurance, transport, unloading and packaging costs which shall be borne by the customer.
- 2.4 Quality descriptions and agreements shall not imply the provision of a warranty.
- 2.5 No verbal additional agreements have been made.

3. Data protection

The personal data which we receive during the business relationship with the customer is stored and processed by us according to the data protection law.

4. Delivery and passage of risk

- 4.1 Delivery periods shall only commence upon final clarification of all implementation provisions. Compliance with delivery periods which may have been agreed shall be contingent on fulfilment of the customer's contractual duties
- 4.2 We endeavour to comply with agreed delivery periods. Should we culpably fail to comply with delivery periods, the customer shall be required to provide us with a specified reasonable period of grace. Following abortive expiry of said period of grace, the customer shall be entitled to withdraw from the contract. Damages for delay and damages for non-performance shall be subject to Clause VIII.
- 4.3 Partial deliveries may be made on a reasonable scale.
- 4.4 Delivery shall be made ex works. Transport shall be at the risk of the customer. Unless otherwise agreed, the shipping route and means of transport used shall be specified at our discretion.

In all other respects the risk shall pass upon transfer of the goods to an appropriate carrier. This shall also apply if we transport the delivery with our own personnel. At the customer's request we shall provide transport insurance cover for the delivery at the customer's cost.

5. Payment

- 5.1 If not agreed upon otherwise, our invoices are directly due for payment net without any discount.
- 5.2 The customer shall be deemed to be in arrears at the latest should it fail to settle within 30 days of receipt of the delivery and the invoice. The statutory provisions relating to default in payment shall additionally apply.

- 5.3 Cash discounts which may be agreed shall not be granted should the customer be in arrears in payment of earlier deliveries.
- 5.4 The customer shall only be entitled to offset against claims which are not contested by us or claims against which no legal recourse is possible. The assertion of a right to retain on the basis of disputed counterclaims or counterclaims which have not been recognized by non-appealable declaratory judgment is excluded unless such claims are based on the same contractual relationship.

Offsetting or assertion of the right to retain shall also be permitted during the course of court proceedings with regard to claims which are ready for decision.

6. Notification of defects, liability for defects

- 6.1 The customer shall inspect the goods received immediately with regard to quantity, quality and defects. The goods shall be deemed as approved should discernible complaints not be made in writing immediately, within 1 week of receipt of the goods at the latest, or if a defect becomes apparent at a later time if such defect is not notified immediately upon its detection.

Should the customer detect defects in the goods, the customer shall not dispose of the goods in any way – i.e. the goods shall not be split, resold or reprocessed.

- 6.2 In the event of defects or lack of agreed quality characteristics in the goods delivered, we shall be entitled to opt to remedy said defects or provide replacement delivery of goods in perfect condition at our own discretion.

Expenses necessarily incurred in relation to subsequent improvement work (including but not limited to costs of travel and transport, labour and material) shall be borne by us.

This shall not apply to increased expenses arising owing to the relocation of the purchased item to a place other than the place of delivery or the customer's commercial branch unless said relocation corresponds with such item's intended purpose.

- 6.3 Should subsequent improvements or substitute delivery prove abortive, or should it be impossible, unreasonable for the customer, refused by us or should the same be delayed for longer than a reasonable period of time for reasons for which we are responsible, the customer shall be entitled at its own discretion to withdraw from the contract or to demand a reduction in the purchase price or reimbursement of expenses. We shall be liable for damages incurred by the customer in the framework of the general liability provisions under Clause VIII.
- 6.4 The limitation period for warranty claims is 12 months. The statutory provisions shall continue to apply to the limitation period for recourse claims pursuant to Section 445 a BGB.

7. General liability

- 7.1 Claims for damages, regardless of their legal standing, asserted by the customer shall only be accepted
- a) if damages arise as a result of the culpable breach of contract which jeopardizes the very purpose of the agreement, or
 - b) if we have warranted the characteristics of the delivered goods or have guaranteed quality, or in the case of
 - c) damages relating to injury to life, body or health, or
 - d) insurable damages in those instances in which it would have been possible and reasonable for us to have taken out insurance cover, or

- e) damages which are due to wilful intent or gross negligence, or
- f) instances in which we are liable under the German Product Liability Act (Produkthaftungsgesetz).

- 7.2 Should we be liable pursuant to Clause 1 a) for breach of contract without having acted with gross negligence or with wilful intent, the amount of the liability shall be limited to those damages which we must have been able to anticipate as intrinsic to the contract on the basis of the circumstances known to us at the time, the contract was concluded.
- 7.3 The limitation of liability provisions referred to above shall apply analogously to the actions and personal liability of our employees, agents in performance, representatives or other agents.

8. Retention of title

- 8.1 The delivered goods shall remain our property pending settlement of the purchase price and all future claims arising from the business relationship with the customer. Retention of title shall continue to apply if individual receivables are added to an open account and the balance drawn and accepted.

Should the customer be in arrears with its payment, we shall be entitled – after issuing a reminder – without withdrawing from the contract in advance to demand surrender of the reserved goods.

- 8.2 The customer shall be entitled to resell the reserved goods in the ordinary course of business. The customer shall, however, herewith assign to us all receivables – equivalent in value to our invoice amount - due from the customer's own purchasers or third parties which accrue from the resale of the reserved goods by the customer.
- 8.3 Subject to revocation the customer shall be authorized to collect assigned receivables. We shall refrain from exercising our right to collect such receivables provided that the customer complies with its payment obligations to us.

On request the customer shall provide us with the names of debtors of the assigned receivables and shall inform said debtors that such notice has been made; we retain the right to notify such assignment to the debtor ourselves.

- 8.4 The customer shall inform us in writing immediately in the event of any seizure or other act of intervention by third parties to enable us to bring an action under Section 771 ZPO (German Code of Civil Procedure). Should the third party not be able to reimburse to us the court or out-of-court costs of an action brought under Section 771 ZPO, the customer shall be liable for any losses we may incur.

9. Final Provisions

- 9.1 The legal relationship with the customer shall be subject to German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- 9.2 The sole legal venue for registered traders, legal persons and special funds under public law for any actions on cheques and bills of exchange as well as for all other direct or indirect legal disputes shall be Dillingen/Donau. We shall, however, also be entitled to bring an action at the customer's place of business or before other courts which may have jurisdiction for such matters on the basis of German law or the law of any other country.
- 9.3 Should one or several provisions be null and void, either wholly or in part, this shall not affect the validity of the remaining provisions.