

# General Conditions of Sale and Delivery

## A) General Terms

### I. Contract conclusion

1. Our complete supplies and services - actual or in future - are done exclusively based on the following conditions. They will be accepted at the latest with the receipt of our goods and/or our services. Purchasing conditions or terms of the buyer will be not accepted even if we do not contradict them again on receipt explicitly.

2. Our offers are without engagement. Deals and verbal agreements on contract conclusions will become legally binding by written confirmation, only - especially when differing from our conditions. In order to comply with the written form, transmission by E-Postbrief (or any other comparable offer) is sufficient.

3. These conditions are valid for sales based on trade terms, in particular the INCOTERMS, too. For sales based on a contracting formula of the INCOTERMS, the latest version of the INCOTERMS will be binding. These trade terms are valid in this respect only if there will not be any other arrangement in these general conditions or in special agreements.

### II. Prices, Terms of Payment

1. Our prices are understood ex works, excluding packaging and VAT, as far as nothing else has been offered or agreed in written form. We will charge the prices of our order confirmation. We will be bound to them for six months. In case of a delivery later than six months after the order date we will reserve the right to charge the prices valid at the day of delivery.

2. The prices for products which are containing non-ferrous metals contain a metal price base which will be stated individually for the product concerned in price list, offer, acceptance of the order or invoice. The difference between the published current price (plus procurement costs) and the price base changes the basic price as a surcharge or reduction.

3. If not agreed otherwise in writing our invoices have to be paid immediately. Delay occurs on day after due day, anyhow thirty days after due date and receipt of an invoice or equivalent request for payment. The buyer has the right for set-off only if his counterclaims are regarded valid legally, undenied or accepted by us. In case of denied counterclaims the buyer has no right of retention.

4. We take discountable bills of exchange for payment on explicit agreement, only. Credit notes for bills of exchange or cheques are done subject to receipt, minus the expenses, value according the date of our disposal for the equivalent.

5. If agreed dates of required payment are not kept, interest will be charged according to the individual bank rates for overdraft credits, at least ten percent interest more than the basic interest rate of the European Central Bank.

6. All our claims will become due immediately if the terms of payment will not be kept or we receive an unfavourable credit information about the buyer disregarding the runtime of taken and credited bills of exchange. We then have the right to carry out outstanding deliveries only against payment in advance and to cancel the contract after an appropriate extension time or are entitled to compensatory damages because of non-performance.

7. We also have the right for securities of usual kind and volume for our claims even if they are conditional or limited.

## B) Carrying out the delivery

### I. Delivery times, delivery deadlines

1. Delivery times start with the date of our order confirmation but not earlier than the complete clearing of all details of the order, the opening of an letter of credit or receipt of necessary certifications by domestic or foreign authorities. Delivery times or delivery deadlines refer to the time of the shipment in our works. Delivery times or delivery deadlines extend for the same time the buyer is in delay with his obligations against us from this or other contracts disregarding our rights from the delay of the buyer.

2. If we get into delay, the buyer is allowed to cancel the contract after an appropriate extension time set to us if the goods will not be announced ready for shipment before the deadline.

3. In case of a purchase by release order we are entitled to manufacture the whole order quantity completely. The buyer is obliged to acceptance within twelve months after the announcement of completion, if there is no other agreement.

### II. Force majeure and other obstacles in delivery

Occurrences of "force majeure" entitle us to postpone the delivery for the time of the hindrance and an adequate preparation time. If carrying out of the contract becomes unreasonable for one of the parties, this party will be allowed to withdraw from the contract

To the "force majeure" all circumstances are par with that will make our delivery more difficult or prevent it like: monetary or trade policy, other sovereign measures, strikes, lockouts, stoppages (like fire, engine failure, lack of raw material or energy) and hindrances in traffic routes no matter whether they may happen at us, our supplier or a sub-supplier.

### III. Dimensions, weights, quality

1. Deviations in dimensions, weights and quality are permissible by DIN standards or valid practice.

2. The weights, quantities and number of pieces stated in our delivery note are decisive for the calculation. Differences in delivery weights, quantity and number of pieces have to be declared immediately.

3. The delivery quantity may be different plus/minus ten percent from the order quantity in case of special order production.

### IV. Dispatch and passing of risk

1. We decide on the forwarder or carrier.

2. With the handing over of the goods to the forwarder, at least when the goods leave our works or stock, the risk passes over to the buyer for all deals, even for prepaid deliveries.

3. In accordance with standard commercial practice or partial shipment over- or short lengths are permissible.

4. If in accordance with standard commercial practice, we deliver packed up. Reels, drums, cardboard boxes and pallets, which are shown as loan or charged in the invoice are taken back when we receive them free of charge. Returned goods are accepted after preceding agreement, only.

5. For damages in transit the buyer has to organise a fact finding by the concerned office and inform us immediately.

6. When goods which are not determined for the Federal Republic of Germany are dispatched by the buyer or his representative, the buyer has to present the necessary exportation documents for the tax authorities. Otherwise the buyer has to pay an amount that is equivalent to the current VAT for domestic deliveries additional to the invoice amount.

### V. Defects, delivery of goods not as per contract

For defect goods including lack of guaranteed properties we provide warranty in accordance with the following rules:

1. Decisive for the contract corresponding condition of the goods is the point in time when the goods leave our works.

2. Notices of defects have to be made to us in writing immediately after receipt of the goods at the destination. They do not entitle the buyer to withhold the invoices amount. Working on and processing of the goods has to be stopped immediately.

3. In case of a legitimate notice of defect we take back the defect goods and supply perfect goods instead of them. Instead of this, we are entitled to reimburse the undervalue or to make improvements to the goods.

4. If we do not or not as per contract fulfil the duty of replacement culpably, the buyer has the right according to B I.2.

5. Warranty claims come under the statute of limitations after twelve months. The legal regulations like suspension of the running of a period, hindrance and new beginning of the statutory periods keep untouched.

6. Further claims are excluded, as far as permissible legally. This means especially compensation claims of damages that are not found at the goods.

7. The rules stated before are valid even when we supply other goods as per contract.

### C) Reservation of ownership

1. All goods delivered remain our property (goods of reservation) until fulfilment of all our claims, especially the particular balance claims, which we are entitled to, no matter for which legal reasons. It is applied as well even if payments have been made to particular claims.

2. Working on and processing of the goods of reservation take place for us a manufacturer in the meaning of § 950 BGB (German "Bürgerliches Gesetzbuch") without commitment. The processed goods are goods in the meaning of clause 1. When the buyer processes, joins or blends these goods with goods not belonging to us, we obtain a co-ownership of the new goods in relation of the invoiced amount of the goods with reservation of ownership to the invoice value of the other goods used for it. If our ownership expires in case of joining or blending the buyer transfers even now his rights of ownership of the new stock or goods in complete amount of the invoice's amount and keeps them safe for us free of charge. The arising co-ownership by this procedure is regarded as goods of reservation according to clause 1.

3. The buyer is allowed to sell goods of reservation only in usual business, with his usual terms and conditions as far as he is not in delay, provided that he has arranged a reservation of ownership with his customer, too and that the claims from the resale become our property according to clause 4-6. He is not allowed to other disposals concerning the goods of reservation.

4. The buyer's claims from the resale of the goods of reservation are signed over to us even now. They are used as security in the same volume as the goods of reservation.

5. If the buyer sells the goods of reservation together with other goods not sold by us, the sign over of the claims is only valid up to the invoice amount of the sold goods of reservation. For the disposal of goods with a co-ownership of us according to clause 2 the sign over is valid up to the amount of the co-ownership, only.

6. If the goods of reservation are used by the buyer for fulfilment of a contract for work and services or of a contract of works, labour and material the clauses 4 and 5 are applied to the claims from this contract.

7. The buyer is entitled to collect claims from the disposal according to clause 3 and 6 at our revocation at any time permissible. The buyer is entitled to sign over this claim under no circumstances. The revocation is meant to be done in case of suspension of payments, application or opening of a bankruptcy, a judicial or extrajudicial conciliation procedure, a bill or cheque protest or a successful distraint. Accounts receivable incoming by this signed over to us have to be collected in a special account with the name "Außenstände der Firma bedea Berkenhoff & Drebes GmbH, 35614 Aßlar". Accounts receivable signed over to us have to be declared to us immediately with first name and surname, address and amount of the claims of the third-party debtor and they have to be informed about the occurred sign over, if we will not do this by ourselves. At the same time a list with the goods which are left at the buyer has to be sent to us.

8. If the value of the securities exceeds the secured debts for more than twenty-five percent in total, we are obliged to release securities of our own choice on the buyer's demand. About distraint or other restrictions by a third party, the buyer has to inform us immediately.

9. If the reservation of ownership or the sign over will not be effective by the law in which jurisdiction the goods are, the security equivalent to the reservation of ownership or sign over in this jurisdiction is meant to be agreed. Should the buyer's co-operation be necessary, he has to take any measures necessary for reasons and receipt of such rights.

10. In case of behaviour of the buyer contrary to the contract, especially delay of payment, we are entitled to take back the goods of reservation after dunning. The buyer is obliged to surrender of the goods respectively, if necessary, sign over his claims of surrender of the goods to a third party. The execution of these rights does not lead to a withdrawal from the contract.

11. Our terms of delivery and payment are exclusively valid to which our customer agrees by placing an order with us for present and future business even if these terms are not explicitly mentioned again but have been sent to the buyer in a confirmed order. If the order is placed not in accordance to our terms of delivery and payment, our terms of delivery and payment will still be valid even if we do not explicitly object. Deviations apply only if they have been expressly acknowledged in writing by us.

12. We are entitled to assign the claims from our business relationship.

13. If the purchaser is in arrears with us with regard to any payment obligations, all existing debts immediately become due

### D) Liability

Our liability follows strictly the rules stated in the previous sections. All claims (claims for damages) not stated explicitly there - no matter for which reason - are excluded, as far as legally permissible.

### E) Other

#### I. Applicable law

For all legal relations between us and the buyer the law for legal relations between domestic parties at our company headquarters will be valid, only. The contractual relationship is solely subject to German law, particularly the German Civil Code and the Commercial Code (German "Handelsgesetzbuch").

#### II. Partial ineffectiveness

Should single rules of this general sales and delivery conditions and terms completely or partially be ineffective, the other rules will keep effective completely.

#### III. Data storage

The buyer is informed that we will store and process his data electronically as far as necessary for business and permissible in the scope of the German "Bundesdatenschutzgesetz". It is pointed out to the obligation to preserve invoices according to § 14 UStG (German "Umsatzsteuergesetz").

#### IV. Place of performance

Place of performance for the obligation to pay is 35614 Aßlar, Germany, for all other obligations the places of the delivering works or stock. For full merchants in the meaning of the Commercial Code (German "Handelsgesetzbuch"), legal entities of public law or public-law special assets the place of jurisdiction will be 35578 Wetzlar, Germany.

bedea Berkenhoff & Drebes GmbH, July 2015

#### Advice:

This translation is made to keep the buyer informed about the rules of our business relationship. Due to the fact, that translation errors might be possible, the German version is applicable binding in any way.

