

General Terms and Conditions of Sale of Brückner-Werke KG

Section 1

Application of the Terms and Conditions

The deliveries, services and offers from Brückner-Werke KG (hereinafter called seller) shall be based exclusively on these GT&Cs. Customers within the meaning of these terms and conditions of business are exclusively business owners. According to Section 14 *BGB* [German Civil Code], business owners are natural persons or legal entities or partnerships with legal capacity who/that act in pursuit of their trade or self-employment when entering into a legal transaction. These GT&Cs shall apply exclusively and also to all future business relations, even if these are not expressly agreed upon again. Individual agreements between the contracting parties shall take precedence. These terms and conditions shall be deemed accepted no later than when the goods are taken receipt of. Counter-confirmations from the buyer and any reference to its terms and conditions of business and/or purchase are hereby objected to.

Section 2

Offer, Conclusion of a Contract

The seller's offers shall be subject to change without notice and be non-binding. Unless otherwise stated, they shall expire 14 days after their submission. Declarations of acceptance and purchase orders shall be acknowledged by the seller by email or fax without delay after receipt thereof. The conclusion of a contract shall be brought about only as a result of written acknowledgement of the order or confirmation of the contract by the seller or as a result of delivery of the goods. The contractual languages are German and English.

Side agreements as well as amendments and additions to the contract shall be effective only if these are confirmed by the seller in writing.

Section 3

Prices

Unless otherwise expressly stated in the offer, the prices shall be ex works, including packaging customary in the trade and excluding disposal costs. Value-added tax shall be added at the statutory rate. Additional services shall be charged separately.

The seller shall be entitled to pass on to the customer increases in customs duties, levies, taxes and the like that arise after the conclusion of the contract.

Section 4

Quantity and Quality

Over-delivery or under-delivery on a scale up to 5 % of the agreed quantity shall be possible insofar as the origin of this difference was not known at the time of the conclusion of the contract (e.g. under-delivery by the supplier's supplier, shrinkage due to production, altered container sizes etc.).

In the case of natural products, naturally induced or product-related slight fluctuations in, for example, colour, shape, size, smell, taste and/or the active ingredient content shall not constitute a defect. Nor shall a deviation in the case of microbiological or chemical/physical parameters on a scale of 20 % constitute a defect, except where statutory provisions are violated as a result thereof.

In the case of a sale based on a sample, the sample shall be deemed to be only a reference for showing the general nature of the product. Only the features set out in the specification shall be part of the contract.

In the case of merchandise delivered to the customer from the origin directly or via a warehouse of the seller without any further processing or reworking in any of the seller's factories, warranty rights may be asserted against the seller only if the deviations customary in the origin as regards foreign bodies, chemical-physical parameters, microbiology etc. are significantly exceeded.

Section 5

Delivery and Performance Period

Agreed dates or periods for delivery must be in writing. Delivery dates given by the customer in its order shall be binding upon the seller only if the seller counter-confirms these. This shall apply even if the customer states that the delivery date shall be deemed accepted unless an objection is lodged within a specified period.

Delays in delivery and performance due to force majeure, due to any other hindrance to performance for which the seller is not at fault and due to events that make it materially more difficult or impossible, not only temporarily, to deliver, including in particular fire damage, flooding, strikes, lawful lockout and plagues (including epidemics and pandemics), insofar as a danger level of at least "moderate" is set by the Robert Koch Institute, as well as an official directive, export bans or restrictions by the countries of origin of the raw materials etc. shall, even if they occur at the seller's suppliers and/or their sub-suppliers, not be the fault of the seller, even in the case of bindingly agreed periods and dates. Such delays shall entitle the seller to defer delivery or performance by the duration of the hindrance plus a reasonable start-up period or to cancel the contract in whole or in part with regard to the part not yet performed.

Insofar as goods produced specifically for a customer (e.g. special cut, packaging etc.) are contractually covered by the seller at the origin, and the seller is not supplied by its supplier or is not supplied as contractually agreed, the seller shall have the right to rescind the contract without the buyer being able to assert damage claims as a result thereof.

If a hindrance lasts longer than three months, the customer shall, in respect of the part of the contract that has not yet been performed, be entitled to rescind the contract after having set a reasonable grace period. If the delivery period is extended, or if the seller is released from its obligations, the customer shall not have the right to derive any damage claims therefrom. The seller may invoke the aforementioned circumstances only if it notifies the customer without delay.

The seller shall be entitled to deliver and perform in part at any time, unless the customer cannot be reasonably expected to accept delivery or performance in part.

Compliance with the seller's obligations to deliver and perform shall be conditional upon timely and proper fulfilment of the customer's obligations.

If the customer defaults on acceptance, the seller shall be entitled to claim compensation for the loss incurred upon it. The risk of accidental deterioration and accidental loss shall pass to the customer upon the occurrence of default in acceptance.

For deliveries and services to customers abroad, it shall be deemed expressly agreed that all the seller's costs of legal action, in court or out of court, shall be borne by the customer in the event that the customer defaults on payment.

Section 6

Passage of Risk

The risk shall pass to the customer once the consignment has been handed over to the carrier or has left the seller's warehouse for the purpose of dispatch. If shipment is delayed at the customer's request, the risk shall pass to the customer when notification of readiness for delivery is given.

Section 7

Acceptance

If, in the case of delivery on call, the customer does not call off the goods within the agreed period, or, where no period is agreed, within 3 months of the conclusion of the contract, the seller may set the customer a reasonable grace period for call-off and, upon the expiration thereof to no avail, rescind the contract. Additionally, the seller shall have the right to realise or deposit the goods by way of a self-help sale.

The seller shall have the right to damages for non-performance.

Section 8

Warranty

The time limit for the assertion of defect-related claims is 1 year from delivery of the products.

When the goods are received, the customer shall make a note of obvious defects on the freight documents and give the seller written notification of the damage without delay. Hidden defects shall be communicated to the seller in writing without delay upon discovery.

If the customer omits to give timely notification, or if the customer processes or sells the goods, this shall be deemed to be unconditional approval of the goods.

Claims based on defects against the seller shall only accrue to the direct customers and not be assignable.

Section 9

Retention of Title

(1) The goods delivered (goods under retention of title) shall remain the seller's property until all claims accruing to us against the buyer now or in future have been satisfied, including all outstanding open account balances. Insofar as the buyer conducts itself in breach of the contract, particularly if the buyer is in arrears with the payment of a fee owed, the seller shall have the right to rescind the contract after we have set a reasonable period for performance. The transportation costs arising in connection with repossession shall be borne by the buyer. Insofar as the goods under retention of title are repossessed by the seller, this shall already constitute rescission of the contract. If the goods under retention of title are attached by the seller, this shall likewise constitute rescission of the contract. The seller shall be permitted to realise goods that are under retention of title and have been repossessed by us. The proceeds of realisation shall be set off against the amounts owed to us by the buyer after we have deducted a reasonable amount for the cost of realisation.

(2) The buyer shall treat with care the goods under retention of title. It shall, at its expense, adequately insure them against fire damage, water damage and theft on a replacement value basis. Insofar as servicing and inspection work becomes necessary, the buyer shall carry out this work in due time at its own expense.

(3) The buyer may use the goods that are under retention of title and sell them on in the ordinary course of business as long as the buyer is not in arrears with any payment. However, it shall not be permitted to pledge the goods that are under retention of title or transfer title thereto as security. The buyer hereby already fully assigns to the seller as security the fee claims accruing to the buyer against its customers from any on-selling of the goods that are under retention of title, as well as any claims of the buyer arising against its customers or third parties on any other legal basis in respect of the goods under retention of title (in particular tort claims and claims to insurance payouts), including all outstanding open account balances. The seller hereby accepts this assignment.

These claims assigned to the seller may be collected by the buyer on its account in its own name on behalf of the seller as long as the seller does not revoke this authorisation. The seller's right to collect these claims itself shall not be affected hereby. However, the seller shall not assert the claims itself or revoke the collection authorisation as long as the buyer properly meets its payment obligations.

Insofar as the buyer conducts itself in breach of the contract, however, particularly insofar as the buyer is in arrears with the payment of a fee owed, the seller may demand of the buyer that the buyer notify the seller of the claims assigned and the debtors concerned, give the debtors concerned notification of this assignment and hand over all documents to the seller, as well as provide all information that the seller needs in order to assert the claims.

(4) Any processing or remodelling of the goods that are under retention of title by the buyer shall always be deemed to have occurred on the seller's behalf. If the goods under retention of title are processed together with other items not belonging to the seller, the seller shall acquire joint title to the new item in the ratio of the value of the goods under retention of title (final invoiced amount including value-added tax) in relation to the other processed items at the time of processing. Moreover, the terms applicable to the goods under retention of title shall equally apply to the new item arising from such processing.

If the goods under retention of title are inseparably combined or mixed with other items not belonging to the seller, the seller shall acquire joint title to the new item in the ratio of the value of the goods under retention of title (final invoiced amount including value-added tax) in relation to the other combined or mixed items at the time of combining or mixing. The buyer and the seller hereby already agree that, where the goods under retention of title are combined or mixed in such a manner that the buyer's item is to be regarded as the main item, the buyer shall transfer to the seller on a pro-rata basis joint title to this item. The seller hereby accepts this transfer.

The buyer shall hold in safekeeping for the seller the solely or jointly owned property created in such manner.

(5) If third parties attach or otherwise seize the goods that are under retention of title, the buyer shall point out the seller's ownership and notify the seller in writing without delay so that the seller can enforce its rights of title. Insofar as the third party is unable to reimburse the court

costs or out-of-court costs incurred upon the seller in this connection, the buyer shall be liable for these costs.

(6) At the buyer's request, the seller shall release the security to which the seller is entitled, insofar as the realisable value of the security exceeds by more than 10 % the value of its outstanding claims against the buyer. In this respect, however, the seller may select the security to be released.

Section 10

Payment

Unless otherwise agreed, the seller's invoices shall be due upon the issuance of the invoice and be payable by bank-transfer free of charge, without any deduction for the seller, within 14 days of invoicing.

Even if otherwise specified by the customer, the seller shall be entitled to first of all set off payments against the seller's older debts and shall inform the customer of the type of set-off that has occurred. If costs and interest charges have already been incurred, the seller shall be entitled to first of all set off payments against the costs, then against the interest charges and finally against the principal debt.

Payment shall only be deemed made when the amount is at the seller's disposal. In the case of cheques, payment shall not be deemed made until the cheque has been cashed.

If circumstances that call the customer's credit-worthiness into question become known to the seller, particularly if cheques are not cashed or its payments are discontinued, the seller shall be entitled to declare due the entire residual debt, even if it has accepted cheques. In this case, the seller shall additionally be entitled to demand advance payments or the provision of security.

Even if notifications of defects or counter-claims are asserted, the customer shall only be entitled to set off payment, withhold payment or reduce the price if the counter-claims have been confirmed by a final and non-appealable court judgement or are undisputed. However, the customer shall also be entitled to withhold payment on the basis of counter-claims arising from the same contractual relationship.

The customer shall enter into default upon the expiration of the payment deadline (14 days) stated in subsection 1 of this standard. If the customer defaults on a payment, it shall, without special notice of default being required, immediately enter into default with all other due claims existing against it.

Section 11

Liability

Damage claims, including tort, are excluded regardless of the nature of the breach of duty, except in cases of wrongful intent or gross negligence.

An exception shall exist in the case of breach of material contractual duties (obligations whose performance enables the proper implementation of the contract in the first place, and whose fulfilment the contractual partner normally relies upon and may rely upon); in such case, the seller shall be liable for ordinary negligence, but only up to the sum of the foreseeable loss. Claims based on lost profit, saved expenses, third-party damage claims or compensation for other indirect or consequential loss may only be demanded in the case of intentional breach of duty, unless a quality feature guaranteed by the seller was specifically intended to protect the buyer against such loss.

Insofar as the seller's liability is excluded or limited, this shall also apply to employees, representatives and other authorised agents of the seller.

Section 12

Assignment Authorisation

The seller shall be entitled to assign for financing purposes its claims arising from deliveries and services.

Section 13

Final Provisions

All terms and conditions of business between the seller and the customer shall be governed by German law, excluding international uniform law, in particular UN sales law.



Where the customer is a merchant, a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes ensuing directly or indirectly from the contractual relationship shall be the seller's location.

The seller has not submitted itself to any specific code of conduct.

If a provision in these terms and conditions of business or a provision under other agreements is or becomes ineffective, this shall not affect the effectiveness of any other provisions or agreements. The contracting parties undertake to replace the ineffective provisions with effective provisions that reflect as closely as possible the intended objective of the provisions.

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