

## General Terms and Conditions of Business, Sales and Delivery

### 1. Scope

- 1.1 These Terms and Conditions of Sales and Delivery (hereinafter referred to as "T&Cs") shall apply to all sales and delivery business of Berthold Sichert GmbH (hereinafter referred to as the "Vendor").
- 1.2 These T&Cs shall only apply in relation to persons who, with regard to the contractual relationship, are acting in pursuance of their commercial or freelance occupation (entrepreneurs as defined by Section 14 German Civil Code (Bürgerliches Gesetzbuch, BGB) or are legal entities under public law or special funds as defined by public law (hereinafter referred to as the "Purchaser").
- 1.3 The T&Cs shall apply exclusively. The Purchaser's T&Cs shall not become part of the contract even if the Vendor does not expressly contradict these on a case-by-case basis.
- 1.4 These T&Cs shall also apply for all future sales and delivery business between the contractual Parties even if they are not expressly agreed on again

### 2. Conclusion of contract and contract withdrawal

- 2.1 The Vendor's quotations are subject to alteration and non-binding. This shall also apply if the Vendor consigns to the Purchaser catalogues, technical documentation (e.g. drawings, calculations, etc.), other product specifications or documents - even in electronic form - to which the Vendor reserves rights of property and copyright.
- 2.2 Ordering of goods from the Vendor shall be deemed a binding contractual offer. The Purchaser shall honour any binding offers made to the Vendor or Vendor's legal representative for two weeks after their receipt at the Vendor unless a longer-lasting obligation can be deduced from the offer.
- Acceptance of the contractual offer can be declared either in writing (e.g. by order confirmation) or by delivery of the goods to the Purchaser. Sending the written declaration by email or fax shall satisfy the written form obligation.

- 2.3 No consulting services of any kind, especially regarding the suitability of the purchased object for meeting the Purchaser's actual intended use, shall be component parts of the contract. Nor shall any specific intended use for the merchandise communicated by the Purchaser constitute part of the contract. Testing the suitability of the goods for the Purchaser's specific intended use, possibly by engaging specialists, shall be incumbent on the Purchaser unless the Vendor expressly provides assurance of a specific suitability in writing.

### 3. Prices and payment

- 3.1 The price agreed between the Parties - unless otherwise agreed upon in writing between the Parties - are quoted ex works or warehouse plus the relevant applicable statutory VAT. The Purchaser shall bear the usual packaging and shipping costs for the transport/shipping. The packaging/shipping costs also include the costs of insurance, freight, duty, import and ancillary charges. The Vendor will not take back packaging.
- 3.2 If the price of raw materials or auxiliary materials, salaries or other price-relevant economic conditions should rise or drop between the conclusion of contract and the delivery on grounds for which the Vendor is not responsible, both Parties can demand negotiations about price adjustment.
- 3.3 Unless otherwise agreed between the Parties, payments are due without discount immediately after handover of the goods and invoicing. Partial deliveries are permissible provided they are of interest to the Purchaser and no substantial additional expenses accrue to the Purchaser as a result. Unless a separate agreement on currency has been made between the Parties, payments are to be made exclusively in Euros.
- 3.4 The Purchaser shall be entitled to setoff and retention rights only to the extent that the Purchaser's rights and claims have become legally final or are undisputed. In the event of defects in the delivery, the counter-rights of the Purchaser shall not be affected.
- 3.5 If, after the conclusion of contract, it becomes apparent (e.g. due to initiation of insolvency proceedings) that the Vendor's right to receive the purchase price is at risk due to the Purchaser's lack of ability to perform, the Vendor shall be entitled, in accordance with the statutory provisions, to refuse performance and, if applicable, after affixing a deadline - to terminate the contract (Section 321 German Civil Code (Bürgerliches Gesetzbuch, BGB)). The statutory provisions on the dispensability of setting deadlines shall remain unaffected. If the Vendor terminates the contract pursuant to clause 3.5, then the Purchaser may not derive any further claims against the Vendor from this, except for the refund of any payments already made in connection with the contract.
- 3.6 If the Purchaser is in default of payment, the Vendor can suspend further deliveries to the Purchaser even if they do not belong to the same Sales and Delivery Terms.
- 3.7 If the Purchaser is in default of payment, the latter shall forfeit all discounts, sales and freight reimbursements and other special terms granted by the Vendor in connection with the sale and delivery transaction in question. Interest is to be paid on the purchase price at the relevant applicable interest rate for default during the default. However, the Purchaser shall owe the Vendor at least 12% of the open purchase price receivable p.a. as well as the €5 cost of the written demand notice. The Purchaser shall be permitted to furnish proof that damage beyond the statutory interest rate or depreciation due to late payment has not occurred or is lower than the flat rate demanded by the Vendor according to the previous clause. The Vendor reserves the right to assert further damages caused by default. The Vendor's entitlement to commercial default interest in relationship to business-people (Section 353 German Commercial Code Handelsgesetzbuch HGB) remains unaffected.
- 3.8 Notwithstanding the Purchaser's repayment terms, the Vendor is entitled to undertake the settlement as per Sections 367 para 1 and 366 para 2 German Civil Code (Bürgerliches Gesetzbuch, BGB). The settlement may result in an interest increase. The Purchaser must be informed of this within a month of payment receipt. Otherwise the Purchaser's repayment terms shall apply.
- 3.9 Assignment by the Vendor of claims against the Purchaser shall require Purchaser's written consent.

### 4. Delivery and purchase obligation

- 4.1 The delivery deadline shall be agreed upon individually or stated by the Vendor at acceptance of the order.
- 4.2 Delivery deadlines shall begin after receipt of all documents which are necessary for executing the order, any agreed down-payment or advance payment and any agreed material provision. The delivery shall be deemed to have been made when the Vendor has made the goods available for collection at the latter's works.
- 4.3 The Vendor may manufacture the merchandise differently if this is required to comply with legal requirements, and it does not result in a deterioration in its quality or suitability for use.
- 4.4 If unforeseeable events (such as operational disruptions, strikes, acts of sovereign powers, disruptions of transport, fire, natural disasters or other cases of force majeure) prevent supply deadlines from being kept, then the deadlines shall be extended accordingly without entitling the Purchaser to any damages.
- 4.5 For call-off orders without an agreement on terms, lot production sizes and acceptance dates, delivery deadlines shall be agreed in a call-off schedule. Otherwise, delivery deadlines without specific provisions at order placement shall be based on the call-off quantity, the production workload and production capacity at the time of call-off, taking into consideration the lead times and delivery times of raw materials.
- 4.6 If a binding delivery deadline is exceeded by more than two weeks, despite having secured payment of the purchase price without the Purchaser being responsible for the delay, the

Purchaser can set the Vendor an appropriate second deadline of at least two weeks. The Purchaser may only terminate the contract after unsuccessful expiry of this deadline.

- 4.7 If Vendor is in arrears with the delivery, delay compensation shall be restricted to an amount of not more than 0.5% of the net price (delivery value) of the merchandise affected by the delay per calendar week, limited to a total of 5% of the delivery value of the goods delivered late. The Vendor shall be permitted to furnish proof that no damage or depreciation has occurred to the Purchaser or that this is substantially less than the previously mentioned flat rate. The rights of the Vendor pursuant to Clause 8 (Liability) and the legal rights of the Purchaser in particular in the event of exclusion of performance obligation (e.g. due to impossibility or unreasonableness of the performance and/or subsequent fulfillment) remain unaffected.
- 4.8 Clauses 4.6 and 4.7 shall not apply if a fixed commercial transaction is present, in this case, Section 376 German Commercial Code (Handelsgesetzbuch HGB) shall apply.
5. **Material provision**  
If materials are delivered by the Purchaser to the Vendor for processing, then they must be provided to the Vendor in good time and in faultless condition at the latter's cost and risk with a reasonable quantity surcharge of at least 5%.
6. **Risk assumption**  
6.1 The risk of accidental destruction or accidental deterioration of the goods is transferred to the Purchaser at the time of handing over.  
6.2 However, in the case of a sales shipment, the risk of accidental loss and accidental deterioration of the goods and the risk of delay passes to the Purchaser at handover of the goods to the forwarder, carrier or other person carrying out the shipping. This shall apply irrespective of who bears the costs of the shipment.  
6.3 If the Purchaser defaults on acceptance, this shall be deemed equivalent to hand-over.
7. **Warranty**  
7.1 The statutory regulations shall apply to the rights of the Purchaser in case of defects of quality and title (including wrong and short shipments and incorrect installation or defective installation instructions) unless otherwise determined below. The special provisions on final delivery of the unprocessed goods to a consumer (supplier recourse pursuant to Sections 478 German Civil Code (Bürgerliches Gesetzbuch, BGB)) shall remain unaffected at any time even if the latter has further processed it. Supplier recourse claims shall be excluded if the defective goods have been further processed by the Purchaser or another company, e.g. by installation in another product.  
7.2 After risk transfer in accordance with the above clause 6, the Purchaser is obligated to promptly examine the goods for defects including wrong shipments and quantity errors as defined by Section 377 German Commercial Code (Handelsgesetzbuch HGB) and to complain about these in writing to the Vendor without delay. If defects only become apparent later, the Vendor must likewise be promptly notified. The Purchaser's entitlement to warranty claims against the Vendor shall be void in the event of breaches of the obligation to examine or complain.  
7.3 If the notice of defect is justified and given in due time, as defined by the above paragraph, in the event of defects during the warranty period, the Purchaser shall initially only have a claim to subsequent fulfillment by defect rectification; the Vendor has the right to choose regarding the type of subsequent fulfillment - defect rectification or delivery of a defect-free item. The right to refuse subsequent fulfillment subject to legal requirements remains unaffected. The Purchaser may only assert the rights to abatement or withdrawal from the contract if the subsequent fulfillment fails, a reasonable deadline for subsequent fulfillment (to be set by the Purchaser) has expired unsuccessfully or is dispensable according to the statutory provisions. There is however no right to withdraw in the event of a minor defect.  
7.4 The Purchaser can only assert claims for damages due to a defect under the conditions regulated in this clause 7 if the subsequent fulfillment has failed or the Vendor refuses subsequent fulfillment. The Purchaser's rights to assert further damage compensation claims other than those regulated in this clause 7 shall remain unaffected by this.  
7.5 Only the Purchaser is entitled to claims against the Vendor for defects; these rights are not transferable.  
7.6 The period of limitation for defect claims is one year from delivery. According to Section 438, para 1 (2) German Civil Code (Bürgerliches Gesetzbuch, BGB), this does not apply to goods. This also does not apply insofar as the law specifies longer deadlines (especially Section 438 para 1 (1), para 3, Sections 444 and 445b German Civil Code (Bürgerliches Gesetzbuch, BGB)), as well as in cases of injury to life, limb or health, breaches of duty committed by the Vendor intentionally or through gross negligence or when a defect was fraudulently concealed. Section 438 German Commercial Code (Handelsgesetzbuch HGB) shall apply in regard to notice of claim.  
7.7 The warranty obligation for defects shall expire if the goods are changed, processed, or improperly handled. There is also no warranty obligation for defects which are based on the goods not being used in accordance with its intended use, such as for example non-use.  
7.8 If, after the Purchaser has brought a warranty claim against the Vendor, it emerges that the Vendor has no such warranty obligation, then the Purchaser shall reimburse the Vendor for any expenses incurred.  
7.9 The Vendor may terminate the contract if the Purchaser has not fulfilled the Purchaser's obligations to cooperate despite the granting of an extension period or if the Vendor's service provision is impossible due to obstacles to its performance which the Vendor is not responsible for, could not have foreseen, which are insurmountable in the long term and cannot be remedied with reasonable outlay. This shall also apply to special Purchaser specifications (e.g. custom-made products) in particular the required quality and deadlines. The Vendor shall promptly inform the Purchaser about such matters. Any consideration already provided by the Purchaser shall be immediately reimbursed by the Vendor.  
7.10 Serious events, such as and in particular force majeure, pandemics, industrial disputes, unrest, military or terrorist conflicts which have unforeseeable consequences for the performance of the Contract, shall exempt the Parties from their contractual obligations for the duration of the interruption and to the extent of its impact even if they should find themselves in arrears. Any such event will not automatically lead to the termination of the Contract. The contracting Parties are obliged to notify each other of any such obstacle and to adapt their obligations to the changed circumstances in good faith.
- 7.11 If the Vendor terminates the contract pursuant to clause 7.9, then the Purchaser may not derive any further claims against the Vendor from this, except for the refund of any payments already made in connection with the contract.
8. **Liability**  
8.1 Unless otherwise stated in these terms including the provisions set out below, the Vendor is liable in case of any breach of contractual or non-contractual duties in compliance with the statutory provisions.  
8.2 The Vendor shall be liable to compensate for damages - for any legal ground - in the context of fault-based liability in the case of intent or gross negligence. In the case of simple negligence, the Vendor shall only be liable, subject to the statutory limitations of liability (e.g. *diligentia quam suis rebus*; insignificant breach of duty)
- a) for damages due to tortious injury to life, limb, or health,

- b) for damages resulting from a violation of a material contractual obligation (an obligation, whose fulfillment is a prerequisite for the proper implementation of the contract and compliance with which the customer usually relies on and is entitled to expect); however, in this case, the Vendor's liability is restricted to reimbursement of the foreseeable, typically occurring damages.
- 8.3 The limitations to liability arising from clause 8.2 shall also apply to breaches of duty by or for the benefit of persons for whose faults the Vendor is responsible according to statutory provisions. They shall not apply if the Vendor has fraudulently concealed a defect or had furnished a guarantee for the quality of the goods and for the Purchaser's claims pursuant to the Product Liability Act.
- 8.4 The Purchaser can only terminate or cancel due to a breach of duty which does not consist of a defect if the Vendor is responsible for the breach of duty. In other respects, the statutory requirements and legal consequences shall apply.
- 9. Retention of title**
- 9.1 The Vendor shall retain ownership of the delivered goods until complete fulfillment of all current and future claims of the Vendor against the Purchaser arising from the sales and delivery transaction and a current business relationship. The inclusion of individual claims in a current invoice or account balancing and acknowledgement of the balance by the Vendor shall not affect the retention of title.
- 9.2 The goods subject to retention of title may neither be pledged to third parties, nor assigned as collateral before the full payment of the secured claim. The Purchaser must immediately notify the Vendor in writing if an application has been made to initiate insolvency proceedings or if there is third party access (e.g. seizures) to goods belonging to the Vendor.
- 9.3 In case of Purchaser conduct which is in breach of contract, in particular in the case of non-payment of the due purchase price, the Vendor is entitled in accordance with the statutory regulations to terminate the contract and to demand the goods on the basis of retention of title.
- 9.4 The Purchaser shall be entitled, until revocation, to combine, mix and process the retained goods within the ordinary course of business, doing so for the Vendor as the manufacturer but without obligations towards the latter. If the Vendor's title to the delivered goods lapses due to the combining, mixing or processing, then the Purchaser hereby assigns to the Vendor co-title to the new object in the proportion of the value of the delivered goods to the Purchaser's object at the time of combining, mixing or processing.
- 9.5 The Purchaser shall be entitled, until revocation, to sell the Vendor's goods and the new object within the ordinary course of business. The Purchaser hereby assigns in advance in full, by way of security, to the Vendor accepting this assignment all receivables with respect to the retained goods which have arisen or arise from the sale or any other legal grounds (insurance, prohibited action, etc.). The duties mentioned in clause 9.2 shall also apply in view of the assigned receivables.
- 9.6 The Purchaser shall retain the right to collect such receivables in addition to the Vendor. The Vendor undertakes not to collect the receivables provided the Purchaser meets the Purchaser's payment obligations towards the Vendor, there is no deficiency in the Purchaser's performance capacity and the Vendor is not asserting retention of title by exercising a right according to clause 3. However, if this is the case, the Vendor can demand that the Purchaser informs the Vendor about the assignment of receivables and the corresponding debtors, gives all information necessary for the collection of the claims, surrenders the relevant documents, and informs the debtors (third parties) about the assignment. In this case, the Vendor is furthermore entitled to revoke the Purchaser's authorisation for the further sale and processing of the goods subject to retention of title.  
The Purchaser is obligated to keep the revenues accruing to Vendor separate from the Purchaser's own assets and those of third parties and to document this with appropriate entries in the Purchaser's accounts or invoices. If the Purchaser's receivables from sale to third parties are deposited in a current account, then the Purchaser must object to this with reference to the Vendor's rights and inform the Vendor immediately in writing.
- 9.7 If the value of the above-cited securities exceeds the Vendor's receivables by more than 10%, the Vendor must release the securities at the Vendor's discretion if requested by the Purchaser.
- 10. Property rights**
- 10.1 If the Purchaser has provided the Vendor with specifications for production of the goods the implementation of which entails a violation of patent, copyright, trademark or any other intellectual property rights, then the Purchaser shall hold the Vendor harmless against third-party claims.
- 10.2 The Vendor's design documents and/or the corresponding drafts for these may only be used or divulged with the written authorisation of the Vendors.
- 10.3 The Vendor shall be and remain owner of the moulds produced for the Purchaser by the Vendor itself or by a third party assigned by the Vendor unless otherwise agreed. If the Purchaser becomes the owner of the moulds, the title to the moulds is transferred to the Purchaser on payment of the purchase price. The Vendor is obligated to store moulds which are the Purchaser's property only if a separate safekeeping agreement has been concluded. In this case, the Vendor may only use the moulds for the Purchaser's orders. The Vendor is entitled to exclusive possession of the moulds until an agreed minimum number of units has been accepted or until the termination of contracts for the fulfillment of which, possession of the moulds is a prerequisite. Liability in regard to safekeeping and care is limited to *diligentia quam suis rebus* [due diligence]. The Purchaser shall bear the costs for maintenance and insurance.
- 11. Miscellaneous**
- 11.1 This contract and these general Terms and Conditions as well as all legal relationships between the Parties are subject to the law of the Federal Republic of Germany to the exclusion of all references to other legal systems and international contracts. The application of UN purchasing law is excluded.
- 11.2 Berlin is the exclusive - and also international - place of jurisdiction for all disputes arising from this contractual relationship. However, the Vendor is entitled to take legal action against the Purchaser at the Purchaser's registered head office.
- 11.3 The place of fulfillment for all the Vendor's delivery obligations as well as all obligations of both Parties relating to this contractual relationship is the Vendors registered office in Berlin.

Berlin, July 2020