

## General Terms & Conditions BALTECH AG

### 1. Scope

- 1.1 These Terms and Conditions shall apply exclusively to entrepreneurs, legal entities under public law, or special funds under public law within the meaning of Section 310 (1) of the German Civil Code (BGB). We shall only recognize terms and conditions of the Purchaser that conflict with or deviate from our Terms and Conditions if we expressly agree to their application in writing.
- 1.2 These Terms and Conditions shall also apply to all future transactions with the Purchaser, insofar as they are legal transactions of a related nature.
- 1.3 Individual agreements made with the Purchaser in individual cases (including collateral agreements, supplements, and amendments) shall in any case take precedence over these Terms and Conditions of Sale. Subject to proof to the contrary, a written contract or our written confirmation shall be authoritative for the content of such agreements.

### 2. Offer and conclusion of contract

If an order is to be regarded as an offer according to Section 145 BGB, we can accept it within two weeks.

### 3. Documents provided

We reserve the property rights and copyrights to all documents – also in electronic form – provided to the Purchaser in connection with the placing of the order, e.g. calculations, drawings, etc. These documents may not be made accessible to third parties without our express written consent. These documents may not be made accessible to third parties unless we give our express written consent to do so. Insofar as we do not accept the Purchaser's offer within the period stipulated in Section 2, these documents shall be returned to us without delay.

### 4. Prices and payment

- 4.1 Unless otherwise agreed in writing, our prices are ex works including packaging and plus value added tax at the applicable rate.
- 4.2 Payment of the purchase price shall be made exclusively in EUR to the account stated on our invoices. Any fees shall be borne by the Purchaser. The deduction of a discount is only permissible with a special written agreement.
- 4.3 Unless otherwise agreed, the purchase price shall be paid within 10 days after delivery. Interest on arrears shall be charged at a rate of 8% above the respective base interest rate p.a. We reserve the right to assert a higher damage caused by default.
- 4.4 Unless a fixed price agreement has been made, we reserve the right to make reasonable price changes due to changes in labor, material, and distribution costs for deliveries made 3 months or later after the conclusion of the contract.

### 5. Right of retention

The Purchaser shall only be entitled to exercise a right of retention to the extent that its counterclaim is based on the same contractual relationship and is undisputed or has been finally adjudicated.

### 6. Delivery period

- 6.1 The commencement of the delivery period stated by us shall be subject to the timely and proper fulfillment of the Purchaser's obligations. We reserve the right to plead non-performance of the contract.
- 6.2 If the Purchaser is in default of acceptance or culpably violates other obligations to cooperate, we shall be entitled to demand compensation for the damage incurred by us in this respect, including any additional expenses. We reserve the right to assert further claims. If the above conditions are met, the risk of accidental loss or accidental deterioration of the object of sale shall pass to the Purchaser at the point in time at which the Purchaser is in default of acceptance or debtor's delay.

- 6.3 In the event of a delay in delivery not caused by us intentionally or by gross negligence, we shall be liable for each completed week of delay within the scope of a lump-sum compensation for delay in the amount of 0.5 % of the delivery value (net) of the outstanding goods, however, not more than 5 % of the delivery value exclusively under the condition that the Purchaser has thereby incurred a damage in the corresponding amount. In the event that we are not supplied in good time with goods that are perfectly usable or in the event of other circumstances for which the Supplier is not responsible, e.g. force majeure, strike, war, failure due to attack on the IT infrastructure, statutory provisions, the delivery period shall be extended accordingly. In the event of impossibility of delivery for reasons for which the Supplier is not responsible or which cannot be attributed to grossly negligent or intentional conduct on the part of the Supplier, the Supplier may withdraw from the contract.
- 6.4 Further statutory claims and rights of the Purchaser due to a delay in delivery shall remain unaffected.

**7. Transfer of risk in case of shipment, partial deliveries, acceptance**

If the goods are shipped to the Purchaser at the Purchaser's request, the risk of accidental loss or accidental deterioration of the goods shall pass to the Purchaser upon dispatch to the Purchaser, at the latest upon leaving the factory/warehouse. This shall apply irrespective of whether the goods are dispatched from the place of performance or who bears the freight costs. Partial deliveries are permissible. The Purchaser may not refuse to accept deliveries due to insignificant defects.

**8. Retention of title**

- 8.1 We reserve title to the delivered goods until full payment of all claims arising from the delivery contract. This shall also apply to all future deliveries, even if we do not always expressly refer to this. We shall be entitled to take back the purchased goods if the Purchaser acts in breach of the contract.
- 8.2 As long as title has not yet passed to the Purchaser, the Purchaser shall be obliged to treat the purchased goods with care. In particular, he shall be obliged to insure it adequately at his own expense against theft, fire, and water damage at replacement value (Note: only permissible in the case of sale of high-value goods). If maintenance and inspection work has to be carried out, the Purchaser shall carry this out in good time at his own expense. As long as title has not yet been transferred, the Purchaser must inform us immediately in writing if the delivered item is seized or exposed to other interventions by third parties. Insofar as the third party is not in a position to reimburse us for the court and out-of-court costs of an action pursuant to Section 771 of the German Code of Civil Procedure (ZPO), the Purchaser shall be liable for the loss incurred by us.
- 8.3 The Purchaser shall be entitled to resell the retained goods in the normal course of business. The Purchaser hereby assigns to us the claims against his customer arising from the resale of the retained goods in the amount of the final invoice amount agreed with us (including value added tax). This assignment shall apply irrespective of whether the purchased goods have been resold without or after processing. The Purchaser shall remain authorized to collect the claim even after the assignment. Our authority to collect the claim ourselves shall remain unaffected. However, we shall not collect the claim as long as the Purchaser meets his payment obligations from the proceeds collected, is not in default of payment, and, in particular, as long as no application for the institution of insolvency proceedings has been filed and no cessation of payments has occurred.

- 8.4 The processing or transformation of the object of sale by the Purchaser shall always be carried out in our name and on our behalf. In this case, the Purchaser's expectant right to the object of sale shall continue to apply to the transformed object. If the object of sale is processed with other objects not belonging to us, we shall acquire co-ownership of the new object in the ratio of the objective value of our object of sale to the other processed objects at the time of processing. The same shall apply in the event of mixing. If the mixing takes place in such a way that the Purchaser's item is to be regarded as the main item, it shall be deemed agreed that the Purchaser transfers co-ownership to us on a pro rata basis and shall keep the sole ownership or co-ownership thus created in safe custody for us. In order to secure our claims against the Purchaser, the Purchaser shall also assign to us such claims against a third party which accrue to it as a result of the combination of the retained goods with a property; we hereby accept this assignment.
- 8.5 We undertake to release the securities to which we are entitled at the request of the Purchaser insofar as their value exceeds the claims to be secured by more than 20%.

## **9. Warranty and notice of defects as well as recourse/manufacturer recourse**

- 9.1 The Purchaser's warranty rights shall be subject to the condition that he has duly complied with his obligations to inspect the goods and to give notice of defects in accordance with Section 377 of the German Commercial Code (HGB).
- 9.2 Claims for defects shall become statute-barred 12 months after delivery of the goods supplied by us to our Purchaser. The statutory limitation period shall apply to claims for damages in the event of intent and gross negligence as well as in the event of injury to life, body, and health which are based on an intentional or negligent breach of duty by the user. Insofar as the law mandatorily prescribes longer periods in accordance with Section 438 (1) (2) BGB (buildings and items for buildings), Section 445b BGB (right of recourse), and Section 634a (1) BGB (construction defects), these periods shall apply. Our consent must be obtained prior to any return of the goods.
- 9.3 If, despite all due care and attention, the delivered goods show a defect which was already present at the time of the transfer of risk, we shall, at our discretion, either repair the goods or deliver replacement goods, subject to timely notification of defects. We shall always be given the opportunity to remedy the defect within a reasonable period of time. Claims under a right of recourse shall remain unaffected by the above provision without restriction.
- 9.4 If the supplementary performance fails, the Purchaser may - without prejudice to any claims for damages - withdraw from the contract or reduce the remuneration. If supplementary performance is not possible for the Supplier for technical or operational reasons, the Supplier may also withdraw from the contract. In any case, damages can only be claimed in case of intentional or grossly negligent breach of duty by the Supplier and only up to a maximum amount of 5% of the delivery value.
- 9.5 There shall be no claims based on defect in cases of insignificant deviations from the agreed quality, of only minor impairment of usefulness, of sporadic or non-reproducible software/firmware errors, of natural wear and tear, or of damage arising after the passing of risk from faulty or negligent handling, excessive strain, unsuitable equipment, defective workmanship, inappropriate foundation soil, or from particular external influences not assumed under the contract. If the Purchaser or third parties carry out improper repair work or modifications, no claims for defects shall exist for these and the resulting consequences.
- 9.6 Claims by the Purchaser for expenses incurred for the purpose of supplementary performance, in particular transport, travel, labor, and material costs, shall be excluded to the extent that the expenses are increased because the goods delivered by us were subsequently transported to a location other than the Purchaser's branch office, unless such transport is in accordance with their intended use.
- 9.7 The Purchaser shall have a right of recourse against us only to the extent that the Purchaser has not entered into any agreements with his customer exceeding the statutory mandatory claims for defects. Furthermore, Section 6 shall apply mutatis mutandis to the scope of the Purchaser's right of recourse against the Supplier.

**10. Industrial Property Rights, Copyrights**

- 10.1 If a third party in the country of the original place of delivery asserts justified claims against the Purchaser for infringement of industrial property rights (IPR) in the contractual use of the delivery item, the Supplier shall, at his option, obtain a right of use or modify the delivery items so that they do not infringe the industrial property right, or replace them. If this is not possible under reasonable conditions, the Purchaser or the Supplier may withdraw from the contract.
- 10.2 The Purchaser shall inform the Supplier without delay of any claims asserted by third parties and shall refrain from any acknowledgement. Any negotiations or defense measures shall be left to the Supplier.
- 10.3 Claims of the Purchaser shall be excluded if the infringement of the IPR is caused by or attributable to the use of the delivered goods in combination with the Purchaser's own products or products of third parties, or by modification of the delivered goods, or by the Purchaser's specification of the design of the delivered goods.
- 10.4 In any case, damages can only be claimed in case of intentional or grossly negligent breach of duty by the Supplier and only up to a maximum amount of 5% of the delivery value.

**11. Further claims for damages**

- 11.1 Unless otherwise provided above, claims for damages, irrespective of their legal basis, shall be excluded unless mandatory liability arises from the German Product Liability Act (ProdHaftG), injury to life, body or health, negligence, fraud, or intent.
- 11.2 The term "damages" used in this contract also includes any claims for reimbursement of futile expenses.

**12. Miscellaneous**

- 12.1 This contract and the entire legal relationship between the parties shall be governed by the laws of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- 12.2 The place of performance and exclusive place of jurisdiction for all disputes arising from this contract shall be our registered office, unless otherwise stated in the order confirmation.
- 12.3 All agreements made between the parties for the purpose of executing this contract are set out in writing in this contract.
- 12.4 In the event that individual provisions of this contract are legally invalid, the remaining provisions shall remain valid and the parties shall replace the invalid provisions with valid provisions that come as close as possible to the spirit of the invalid provisions.

Last updated: June 2021