

General Terms and Conditions of Sale and Delivery
of BENDER-FERNDORF ROHR GMBH
(Issue: Jul. 01, 2007)

I. Conclusion of contracts

1. Our supplies and services are exclusively subject to the terms and conditions set forth herein. Unless explicitly agreed in writing in individual cases, the buyer's general terms and conditions of purchase are expressly excluded and shall not constitute part of the contract. The same applies to any rules which may be specified, e.g. VOL or VOB part B or C.
2. Our quotations are subject to change unless otherwise stated in writing in the quotation. Any statements relating to legal transactions or to transactions similar to legal transactions must be agreed upon in writing.
3. Documents which are part of our quotation such as illustrations, drawings, weights and dimensions are approximate unless they are expressly defined as being binding upon us in the confirmation of order. We reserve proprietary rights and intellectual property rights with respect to illustrations, drawings, calculations and other documents, and such may not be disclosed to third parties. This applies in particular to any documents which are declared to be "confidential". Before making such available to third parties the buyer must obtain our express consent in writing.

II. Prices, terms of payment

1. Unless otherwise provided for, our prices shall be deemed to be on a net basis, ex our works, free carrier (FCA) in accordance with the Incoterms which are applicable at the time of delivery. If by the time of delivery a significant change in costs of labour, material and energy occurs, we shall be entitled to request adequate adjustment of the prices to take account of these factors. Unless otherwise agreed, this shall only apply to deliveries effected more than four months after the date on which the contract was signed.
2. Our prices do not include VAT if products are subject to VAT.
3. Unless otherwise agreed, our invoices are payable net cash within 30 days of the date of invoice. If the payment deadline is not met, we shall be entitled to charge interest at the legal interest rate on arrears (§ 288 BGB) without any further reminder. We reserve the right to file for additional compensation if we demonstrate that the damage incurred as a result of the delay is greater than this.
4. If the buyer is in default of payment, or if we learn of circumstances which cause us to have doubts as to the buyer's creditworthiness, all our claims shall immediately become due for payment without considering the terms of any bills that may have been accepted. In such cases, we shall be entitled to carry out further deliveries in return for cash in advance or in return for provision of collateral. The buyer herewith agrees to provide us to access the buyer's premises, to inspect and identify the goods supplied.
5. The buyer shall not be entitled to offset payments against counterclaims unless such counterclaims are confirmed as being legally valid or are uncontested.

III. Retention of title

1. We shall retain title to all goods until payment of all claims under the supply contract has been made in full. If the buyer behaves in a manner which is contrary to the terms of the contract, especially in the event of a default on payment, we shall be entitled to collect the goods supplied. Such collection shall not be deemed to constitute withdrawal from the contract unless this has been explicitly stated by us in writing. After collecting the goods supplied we shall be entitled to make commercial use of such. The sales revenue minus reasonable costs shall be offset against the buyer's liabilities.
2. The buyer shall be entitled to sell the goods in the course of its normal business transactions. It is agreed, however, that any claims the buyer may have against its customers or third parties resulting from resale of the goods (final invoice amount including VAT) shall hereby be transferred to us regardless of whether the goods supplied have been processed or not before resale. The buyer shall be authorized to collect payment for such claims even after their transfer. This shall not affect our right to collect payment ourselves for such claims. We shall refrain from collecting payment, however, if the buyer meets its obligations to effect payment from moneys received, if the buyer is not in default of payment and in particular if no insolvency proceedings have been opened or relief from creditors has been sought. In any such event, we shall be entitled to request the buyer to give details of claims transferred, to provide us with any related documents and to inform its customers (third parties) of such transfer to us.
3. Any processing or modification of our materials by the buyer shall be carried out on our behalf. If the buyer processes our materials together with materials from third parties, we shall be entitled to co-ownership of the new product in proportion of the value of our materials to the value of the other materials processed at the time of such processing. The new product resulting from such processing shall be subject to the same proprietary rights as the delivered item.
4. If the delivered item is inseparably mixed or combined with other materials which are not our property, we shall be entitled to co-ownership of the new product in proportion of the value of our materials to the value of the other materials mixed or combined at the time of mixing or combination. If in a particular case the buyer's item is deemed to constitute the most important element, it is hereby agreed that the buyer shall transfer to us co-ownership in the amount commensurate with our portion. The purchaser shall keep the material subject to full ownership or co-ownership in safekeeping for us.
5. In order to secure our claims against the buyer, the buyer shall transfer to us the claims it may have against a third party and which result from installation of the delivered item within a property.
6. We shall release collateral at the buyer's request if the amount of collateral exceeds the secured claims by more than 10%, the selection of the collateral to be released being at our discretion.

IV. Lead times, delivery dates

1. Lead times shall commence on the date of our order confirmation, but not before full clarification of all the details of the order; this shall also apply to delivery dates. The date of despatch ex works will be decisive in demonstrating compliance with lead times and delivery dates. If goods cannot be collected and such is not due to any failure on our part, the lead times and delivery dates shall be deemed to have been fulfilled at the time of notification of readiness for despatch. Lead times will be extended by the period of time for which the buyer fails to comply with its obligations towards us arising from this or from any other contract. This shall also apply with respect to delivery dates.
2. In the event that we are in default of delivery, legal provisions shall apply. We shall only be deemed to be in default, however, if we have already received an express reminder pursuant to such. Claims for damages may only be forwarded in the event of wilful intent or gross negligence. Claims for damages shall be limited to that damage which was reasonably foreseeable, excluding foregone profit.
3. If the buyer fails to collect the goods in due time, or if the buyer breaches any other obligations to co-operate, we shall be entitled to request compensation for the damage incurred, including any additional expenditure. In this event, the risk of accidental loss or accidental

deterioration of the delivered item shall pass to the buyer at the time the buyer becomes in default of acceptance.

4. Acts of God entitle us to postpone delivery by the period of their duration plus an adequate lead time. If fulfilment of the contract becomes impracticable for either party due to Acts of God, either party may withdraw from the contract after having been granted a reasonable extension of time. Any circumstances which make delivery more difficult or even impossible, e.g. measures related to monetary or trade policy or other sovereign measures, strikes, lock-outs, breakdowns in production, (e.g. fire, machine or roll breakdown, lack of raw material or energy) as well as any obstructions of traffic routes shall similarly be considered to constitute Acts of God regardless of whether these circumstances occur at our premises, at our supplier's premises or at the premises of a subcontractor.

V. Dimensions, weights, qualities

Deviations in terms of dimensions, weight and quality are permissible to the extent defined in applicable standards or common practice. Weights stated in quotations, order confirmations and shipping notes are based on theoretical calculations. On special request or if required to meet standards, individual weighing shall be carried out, and a weighing protocol shall be submitted. In the case of individual weighing the total weight of the goods delivered shall apply. Differences as compared with the calculated individual weights shall be distributed proportionately to these.

VI. Transfer of risk and despatch

1. Unless otherwise provided for in our order confirmation, delivery shall be deemed to be agreed upon as being on an "ex works" basis.
2. Risk shall be transferred to the buyer upon delivery of the goods to the forwarder or carrier, but at the latest when the goods leave the factory.
3. Transport shall be carried out by order and on behalf of the buyer.
4. If loading or transport of the goods is delayed for reasons which are not imputable to us, we or our agents shall be entitled but not obliged to store the goods at the buyer's cost and risk at our discretion, without assuming liability, including if need be outdoors, to take all measures deemed necessary to maintain the goods in good condition and to invoice the goods as if they had been delivered.
5. In the absence of specific instructions from the buyer to the contrary, shipment will be effected at our discretion without taking responsibility for the most cost-effective shipping mode. We will provide packaging, means of protection and transport aids on the basis of our experience at the buyer's expense and without assuming liability. Packaging, means of protection and transport aids shall not be returnable.

VII. Warranty and liability

1. Our products shall be deemed to be free from material defect if their quality at the time when the risk is passed to the buyer is commensurate with the quality which has been agreed upon. This shall also apply if there are insignificant defects or slight deviations in quantity. The buyer must thoroughly inspect our products following receipt and advise us immediately of any defects which have been detected.
2. Incorrect information on the processing of goods of our supply / installation instructions / other information on use shall not constitute grounds for any claims for material defects with respect to the delivered items. No liability shall be assumed for the correctness of product descriptions of sub-suppliers or suppliers of raw material.
3. Justified claims for material defects shall be met by subsequent rectification, which shall be performed as we see fit by rectification of the defects or by the supply of new goods without any defects. Subsequent rectification shall be limited to performance at the initial place of despatch.
4. Claims for damage shall be limited to such damage arising from acts of intent or gross negligence on the part of our legal representatives or parties hired by us to execute the agreement. Apart from these, claims for damages shall be excluded. This shall not affect claims resulting from death, bodily injury or damage to health or from the breach of an essential contractual obligation. With the exception of acts of wilful intent or gross negligence, damage claims shall be limited to that damage which is reasonably foreseeable, excluding foregone profit. In the case of insurable damage, our liability shall be limited to 2.5 million Euros for each damage event.
5. Damage claims shall become time-barred one year after delivery. This shall not apply to products which are intended to be integrated into structures and which cause defectiveness of the structure.
6. This shall not affect compulsory legal provisions relating to product liability.

VIII. General limitation of liability

Circumstances which are not linked to defects in the delivered item shall be subject to the limitations on liability stipulated in VII paragraph 4.

IX. Place of performance, legal venue

1. Unless otherwise provided for in our order confirmation, our registered headquarters shall be the place of performance.
2. If the buyer is a businessman or business undertaking, the legal venue shall be the court having jurisdiction over our registered offices. We shall, however, also be entitled to take legal action against the buyer with the court having jurisdiction over the registered offices of the buyer.

X. Miscellaneous

1. Proof of export: When collecting goods not intended for use in the Federal Republic of Germany, the buyer or the agents of the buyer must furnish the proof of export required for tax purposes. If such proof is not provided, the purchaser shall be obligated to pay the VAT applying to deliveries within the Federal Republic of Germany.
2. The contractual relationship between the buyer and our company shall be interpreted in accordance with the Laws of the Federal Republic of Germany. The Vienna Convention of the United Nations on Contracts for the International Sale of Goods shall be excluded.