

General Terms & Conditions of Sale and Delivery

BIKAR METALLE GmbH
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Effective from: 7th May 2014

1.) General

All offers and contracts in respect of the company are based exclusively on the following conditions. We do not accept conditions of the customer that contradict or deviate from our own Terms & Conditions reproduced below, even if we have not rejected them specifically, unless they have been confirmed by us expressly in writing. The customer accepts our Terms & Conditions by placing an order and/or accepting a delivery.

2.) Quotations

Our quotations are subject to change. All agreements must be confirmed by us in writing to become valid or shall become binding on commencement of fulfillment of the order.

All declarations in relation to conclusion, alteration or termination of contracts must be submitted in writing. These shall only become binding on us when we confirm them in writing.

If the customer orders the goods by electronic means, we will store the text of the contract and send it to the customer on demand together with these General Terms & Conditions.

3.) Information on drawings or in other forms

The properties and condition of the goods are determined exclusively by the terms of delivery agreed between us and confirmed by us in writing. If we are required to provide delivery in accordance with our customer's drawings, specifications, patterns, etc., the latter accepts the risk of their suitability for the intended purpose. The point of transfer of goods is definitive in determining the condition of the goods in accordance with the contract. To this extent, we accept liability only for proper processing. Unless otherwise expressly agreed, no liability can be accepted for determining the quality of materials or for damage caused by corrosion.

Information in brochures, drawings, catalogs and other sales documents, including specifications of weight and dimensions contained in them, are non-binding unless they are designated expressly as binding, and only serve as approximate values as are customary in the industry.

The dimensions, weights and quantities specified by us fluctuate within the tolerances customary in the industry and are not a guarantee of properties and condition even in our quotations and order confirmations.

Measurements from freely programmable additional equipment. The calibrated measurements may be inspected.

4.) Copyright

We reserve our proprietary rights and copyright for quotations and estimates, brochures, calculations, drawings and other documents, molds, devices and tools manufactured, etc.; these may not be used, made available to third parties, duplicated or published without our written consent. The customer accepts liability for all direct or indirect damages caused by failure to comply with this provision.

5.) Prices

Unless otherwise agreed, our prices are ex works plus the relevant sales tax and do not include packaging, shipping costs, insurance, customs duties or any other fees. These shall be charged separately, as appropriate.

If our delivery is made in accordance with the contract or, at the request of the customer, later than two months from placement of the order, and if changes in the price of raw materials or in wage costs occur during this period, we are entitled to recalculate the price on this basis.

If we receive goods for further processing, the price agreements made with the customer shall apply, with the condition that the customer provides his goods to us in good time so that the agreed delivery date can be met. If they are made available with a delay that results in postponement of the delivery date, we are entitled to adjust the price to the prices that apply on the date of delivery to reflect changes in the basis of the pricing (e.g. raw materials, wages).

The prerequisite for the applicability of agreed prices is that the items on the basis of which the agreement was made remain unchanged and that they can be provided without hindrances that are the responsibility of the customer (e.g. unclear or inaccurate documentation provided by the customer, incomplete or delayed delivery to ourselves). Subsequent extensions and modifications that lead to additional expense shall be charged to the customer.

Contracts without a price agreement shall be charged at the price applicable at the time.

6.) Payments, default on payment

The recompense agreed is payable in accordance with the payment conditions agreed with the customer or the details in our order confirmation.

Bills of exchange shall only be accepted by express written agreement. Discounts and fees shall be charged to the customer. In the case of payment by check or bill of exchange, the payment is deemed to have been made only after encashment.

On expiry of the agreed payment period or the period specified in the order confirmation, we are entitled to demand interest in the amount of the statutory default interest rate (Section 288 of the German Civil Code) without further reminder. We expressly reserve the right to demonstrate that the losses caused by the default are greater.

The customer is not entitled to offset counterclaims unless they

are uncontested or legally established. The customer only has rights of retention insofar as they are based on the same contractual relationship.

Discounts shall not be given.

In the event of significant deterioration in the financial circumstances of the customer, we are entitled to perform our deliveries and services only in return for advance payment or cash on delivery, or to make them dependent on payment of a security. In this case, existing claims for services already performed are due immediately, despite any deferment. This applies in particular if, in the event of default on payment, further payments are not made despite an appropriate period of grace. If the customer does not meet our demand to pay a security within an appropriate period set for him, we have the right to withdraw from the contract.

7.) Delivery

The delivery periods specified in the quotations should be regarded as guides only and are not binding for our part. The prerequisite for the start of and compliance with delivery periods specified by us is the clarification of all technical issues and the timely receipt of all services to be performed by the customer (supplies, authorizations, approvals, plans, other documents, etc.).

The place of performance for all services that the customer must perform for us to complete the work is our respective supplying plant.

In the event of subsequent modifications to the order, the delivery time originally agreed is invalid and a new delivery date must be agreed in writing or will be specified by us on request.

In the event of force majeure or other unforeseeable, extraordinary circumstances for which we are not responsible, such as problems with the quality of materials, strikes, lock-outs, breakdowns in transport, interventions by the authorities, problems with the energy supply, etc., including when they affect our own suppliers, the delivery period shall be extended by a reasonable amount if we are prevented from meeting our obligations as a result.

If an agreed delivery date is exceeded for reasons for which we are responsible, the customer must set us an appropriate period in writing for subsequent delivery. Only upon expiry of this additional period without notice is he entitled to withdraw from the contract.

The delivery period is deemed to have been met on handover of the goods to the freight forwarder.

Over-deliveries and under-deliveries in quantities that are standard in the industry are permitted.

On delivery of the goods, deviations in weights and quantities for technical production reasons are permitted up to 10% of the total final amount, of the individual part deliveries and of the individual items ordered. If no dimensional tolerances have been agreed in writing, the generally accepted DIN/EN norms apply. In the case of goods that are not listed in the DIN/EN norms or

if no specific tolerances have been agreed in writing, general tolerances shall apply.

8.) Part deliveries

We are entitled to make part deliveries unless they are unreasonable for the customer.

9.) Blanket orders

If blanket orders have been agreed with the customer, these shall be called off in approximate equal monthly amounts over a maximum of 12 months, unless otherwise expressly agreed in writing. If the agreed individual call-offs increase significantly at the request of the customer, we reserve the right to delay delivery to an appropriate extent. If the agreed individual call-offs fall significantly, we reserve the right to adjust the shipping and packaging costs. If the agreed individual call-offs are delayed at the customer's request by more than 2 months, we are entitled to charge storage costs of an appropriate amount. We also reserve the right to make use of the price adjustment clause in Section 5.

10.) Shipping, transfer of risk, insurance

All deliveries from our company are made „ex works“ (EXW Incoterms 2000). Accordingly, the risk of deterioration, loss or damage to the goods is transferred to the customer on handover of the delivery to the shipping company or freight forwarder in our warehouse.

We reserve the right to choose the shipping route and method if no other instructions are provided by the customer. The material is usually supplied unpacked and unprotected against rust. We only supply packed goods insofar as this is usual in the trade. The customer shall meet the costs for this.

At the request of the customer, the shipment shall be insured by us at his expense against theft, breakage, transport, fire and water damage and against other insurable risks.

In the event of transport damage, the customer must arrange for a report of the facts to be made by the relevant body without delay.

11.) Acceptance testing

If the goods or any other service are to undergo acceptance testing, we shall determine the place and time of the acceptance test. The costs of the acceptance test shall be met by our contracting partner. If our contracting partner does not appear for the acceptance test, we may set a period of 7 days for formal acceptance testing with the condition that our delivery is deemed to have been accepted if our contracting partner does not appear for the acceptance test within this 7-day period. After the 7 days, our service is then deemed to have been accepted. Special regulations require our written confirmation.

We are then entitled to ship the goods, but we are not obliged to do so. The customer shall meet the costs associated with acceptance testing.

12.) Claims for defects

Compliance with the contract and absence of defects in our deliveries is determined exclusively by our express agreements. We can only accept liability for a specific purpose or specific suitability if this is described expressly in writing in those agreements and has been confirmed by us in writing. In all other cases, the risk of suitability and use lies exclusively with the customer.

As a matter of principle, the contents of the contractual agreements with the customer are not the basis for any guarantee. Acceptance of a guarantee requires an express written agreement confirmed by us.

The customer shall inspect our deliveries immediately on receipt to check for transport and packaging damage, the quantity delivered and other obvious delivery defects and shall record any defects identified in this process on the delivery documents and notify us of them without delay. Complaints about other defects that are not concealed must be made immediately in writing. Complaints about concealed material defects must be made in writing as soon as they are discovered and in accordance with the statutory provisions. If an acceptance test has been agreed, complaints about defects that should have been identified during that acceptance test are excluded once it has been carried out.

If the customer identifies defects during the inspection, he shall immediately provide us with the opportunity to inspect the delivery about which the complaint has been made. At our request, the delivery about which the complaint has been made shall be made available to us according to our instructions entirely or partly at our expense. In the case of unjustified complaints, we reserve the right to charge the shipping, packaging, inspection and other associated incidental costs incurred in this process to the customer. For goods that we have expressly sold as downgraded material („II-A material“), the customer has no right to make complaints about faults that we have specified in the quotation or order confirmation or which he would normally expect to find.

In the case of a justified complaint, the customer shall grant us an appropriate period in which to provide supplementary performance, unless this is unnecessary for legal reasons. We shall then provide supplementary performance in the form of a replacement delivery, rectification of the fault or remanufacturing of the product at our discretion. In the case of defective parts in elements that are ready for installation, as a matter of principle rectification takes place by means of replacement of the faulty parts, but not of the entire element or the entire delivery. Rectification or replacement delivery shall be carried out within an appropriate period as required at the time of the complaint to procure, rectify and/or remanufacture the faulty parts under standard market conditions. If we do not provide supplementary performance within an appropriate period or if this fails, the customer has the right to demand a reduction in the cost or, in the case of a significant breach of obligation, to withdraw from the contract. If only parts of the delivery are defective, the further rights of the customer relate only to the defective part of the delivery.

If our processing instructions are not followed, the deliveries are

assembled incorrectly by the customer or by third parties, modifications are made without consulting us, parts are replaced or materials used that do not correspond to the originals, the customer has no rights in the event of defects. If the customer carries out improper modifications or maintenance work to the delivery himself or arranges for this to be done by third parties without our written approval, no claims for defects may be made for this or for the consequences that result from it.

The customer's rights of recourse against us under Section 478 of the German Civil Code for recourse against a trader in the case of the purchase of consumer goods only exist if the customer has not made any agreements with his end customer that go beyond the statutory rights. An increase in additional expenses because of costs incurred for transport, work and materials required for supplementary performance is excluded if these are caused by the fact that the delivery has subsequently been relocated to a place other than the place of performance, unless that relocation constitutes proper use. This also applies in the case of rights of recourse. Further claims by the customer on the basis of defects are excluded and may only be substituted in the context of liability under Clause 13.

The limitation period for claims for material defects is 12 months, unless the law prescribes a longer period under Sections 438 Para. 1 No. 2 of the German Civil Code (BGB) (Delivery of items for construction), 479 Para. 1 BGB (Right of recourse in the purchase of consumer goods) and 634 a Para. 1 No. 2 BGB (Building defects). The statutory limitation period also applies in cases of loss of life, physical injury or damage to health, intentional or grossly negligent breach of obligation and fraudulent concealment of defects.

13.) General liability provisions

Insofar as claims are made against us for compensation or reimbursement of expenses on whatever legal grounds, in particular for breaches of obligations arising from the contract or from tort, we only accept liability as follows:

The liability of our company, our legal representatives and our vicarious agents is limited to malicious intent and gross negligence or if the obligation that has been breached is of crucial importance for achievement of the contractual purpose (cardinal obligation).

Liability for minor negligence is excluded, provided that this does not involve breach of obligations essential to the contract. In this case, however, our liability for compensation is limited to the foreseeable damages typical of such a contract.

This exclusion of liability and these limitations of liability do not apply insofar as we have mandatory liability in the case of loss of life, physical injury or damage to health or of damage to items in private use under the German Product Liability Act or for any other reasons. This agreement does not involve any alteration in the burden of proof to the disadvantage of the customer.

In the case of liability under the above provisions, the amount is limited to such damages as were foreseeable on conclusion of the contract as a possible consequence of such a breach of contract or that were known to us or should have been known to us taking all circumstances into consideration or that were

foreseeable with due care and attention.

In the case of liability for indirect damages and consequential damages as the result of delivery of defective goods, our obligation to pay compensation applies only to such damages that are typically associated with proper use of the item supplied.

The preceding provisions also apply to the same extent to our legal representatives, employees and vicarious agents.

Rights under the Product Liability Act and under any warranty are not affected.

The rights expire within one year of handover of the delivery to the customer. The statutory provisions apply to claims for compensation under the Product Liability Act.

14.) Supplier's right to withdraw

In the case of unforeseen events, insofar as they significantly change the economic significance or the content of the service or have a significant effect on our business and if it subsequently transpires that it is impossible for the contract to be carried out, the contract shall be adjusted as appropriate. Insofar as this is not economically reasonable, we have the right to withdraw from the contract in whole or in part.

The customer has no rights to compensation in the case of a withdrawal of this sort. If we wish to exercise our right of withdrawal, we must notify the customer as soon as we become aware of the extent of the event, even if an extension of the delivery period has previously been agreed with the customer.

15.) Provisions

We shall retain templates, raw materials and other items that may be reused, such as semi-finished and finished products of the customer only with prior agreement and in return for separate payment. Our liability for this is determined by Clause 13.

We must only carry out a prior inspection of the materials, parts, semi-finished products, tool devices and other parts provided to us by the customer if this has been expressly agreed with the customer and the responsibility for the costs has been determined. The customer may not pursue any claims against us for material defects or other circumstances for which we are not responsible that make the provisions unusable. He shall replace the parts concerned free of charge and with free delivery and take back the defective parts free of charge and with free delivery.

16.) Reservation of title

We reserve the title to the goods until full settlement of all claims arising from an ongoing business relationship, whatever the legal grounds on which they are based. In the case of a running account, the retention of title is security for our respective request for payment of the account balance. This also applies if payments are made by the customer for specific claims. In the event of action on the part of the customer that is in breach of contract, in particular default on payment, we are entitled to repossess the item for which title is reserved and to enter the customer's premises for this purpose.

The customer hereby expressly accepts this. We are also entitled to gain possession of the purchased item ourselves. The customer expressly accepts this, so that it specifically does not constitute unlawful interference.

The customer is obliged to treat the goods with due care. If servicing and maintenance work is required, the customer shall carry this out regularly at his own expense.

Processing or alteration of the goods subject to reservation of title is always carried out on our behalf as the manufacturer, without giving rise to any liability for us. In the event of processing or alteration of the goods subject to reservation of title with other goods not supplied by us, we are entitled to co-ownership of the new item in the proportion of the value of the goods subject to reservation of title to the other processed or altered goods at the time of processing or alteration.

In the event that our ownership of the goods subject to reservation of title expires as a result of combination or mixing, the customer hereby transfers to us his

(co-)ownership rights to the new item or the mixed asset in proportion to the invoice value of the goods subject to reservation of title and shall retain them for us free of charge. The new item resulting from processing, alteration, combination or mixing (hereinafter referred to as the „new item“) or the right to (co-)ownership of the new item to which we are entitled or which is transferred to us under No. 2 of this Clause serve to secure our claim in the same way as the goods subject to reservation of title themselves in accordance with Clause 1. Unless otherwise regulated in the following provision of these Clauses, this applies to the new item in the same way.

The customer may sell the goods subject to reservation of title only in the course of proper business transactions with standard business conditions and only as long as he meets his payment obligations to us on time. The customer is obliged to resell the goods subject to reservation of title only with his own reservation of title and to ensure that the claim arising from such selling transactions can be transferred to us.

The customer's claim from reselling the goods subject to reservation of title is hereby assigned to us. We accept the assignment. The claim shall serve as security to the same extent as the goods subject to reservation of title. If the customer sells the goods subject to reservation of title together with other goods not supplied by us, the assignment of the claim only applies to the invoice amount resulting from the resale of our goods subject to reservation of title. If the goods are sold in accordance with Clause 2 or with the statutory regulations on combining and mixing the item which we own jointly, the assignment of the claim applies to the amount of our share in the joint ownership of the goods.

If the customer accepts claims from the resale of the goods subject to reservation of title in any existing open account relationships with his end customer, he hereby assigns to us a recognized account balance or final balance in his favor corresponding to the total amount of the claim included in the open account relationship from the resale of our goods subject to reservation of title.

To this extent, the preceding paragraph applies accordingly.

The customer is entitled to collect the claim assigned to us from the resale of the goods subject to reservation of title. The customer is not permitted to assign the claim from the resale, including in the context of a genuine factoring agreement.

We may revoke the authority to make collection at any time in the event of default on payment, stoppage of payment, transfer of the customer's business operations to third parties, impaired creditworthiness or trustworthiness or liquidation of the customer's business and in the event of a breach by the customer of his contractual obligations under Clause 3 of this section. In this case, the customer is obliged to inform his customer of the assignment of the claim to us without delay and to provide us with all of the information and documentation required to make collection. He is also obliged in this case to release or transfer to us any securities to which he is entitled for customer claims.

If the achievable value of the securities to which we are entitled exceeds our secured claims by more than 15%, on demand by the customer, we are prepared to release securities of our choice in this context.

The customer is obliged to notify us without delay of any garnishment or other or actual impairment or risk to the goods subject to reservation of title or to any other securities to which we are entitled.

The customer undertakes to insure the goods subject to reservation of title adequately, in particular against fire, water, storms, lightning and theft. He hereby assigns his rights under these insurance policies to us.

In the event of action that is in breach of the contract on the part of the customer, in particular in the event of default on payment or breach of an obligation under this section, we are entitled to withdraw from the contract and demand release of the goods. In this case, the customer hereby gives his consent for us to take away the goods subject to reservation of title from the customer's premises or – if we are the sole owner – the new item as defined by Clause 2 of this section, or to arrange for said items to be taken away. The customer shall grant us or any person appointed by us access at any time to execute these measures or to carry out a general inspection of the goods subject to reservation of title or the new item.

17.) Proprietary rights of third parties

If we are providing delivery in accordance with the customer's specifications (drawings, patterns, models, etc.) or using workpieces provided by the customer, the customer shall guarantee that the proprietary rights of third parties are not being breached in the process.

If a claim for a breach of such proprietary rights is made, the customer shall indemnify us against all third-party claims at first request and shall provide compensation for any losses incurred as a result. Our company is not obliged to make delivery if a third party forbids manufacture of the delivery on the grounds of a proprietary right to which he is allegedly entitled. Defense against such claims is the responsibility of the customer alone and we have no obligations in this respect.

We do not accept liability for damages or losses to the workpieces, drawings, patterns, tools or similar made available to us by the customer. If the customer wishes the items provided by him to be covered by insurance, this shall only be taken out by us on express written request and at the expense of the customer.

If production equipment is manufactured by us to carry out the work, this shall remain our property – irrespective of payment or partial payment by the customer – unless an alternative written agreement with the customer exists.

18.) Proof of export

If the customer, whose place of business is outside the Federal Republic of Germany, commissions our services or does so via a third party or sends them abroad, the customer shall provide the proof of export required for tax purposes without delay. Until this proof is provided by the customer, the customer shall pay the sales tax applicable to the full invoice amount for deliveries inside the Federal Republic of Germany.

19.) Export control

Fulfillment of the contract by us is on condition that no restrictions or bans arising from national, supranational or international regulations under foreign trade legislation and no embargoes or other sanctions stand in the way of such fulfillment.

The customer is aware that any export in contravention of a ban and any use of goods supplied by us in contravention of a ban constitutes serious damage to the business interests of Bikar-Metalle GmbH, including if the breach of the law is connected with export or use not by the customer himself but by third parties. If, after conclusion of the contract, we become aware of circumstances that indicate that the fulfillment of the contract under the national, supranational or international provisions that apply to us would be forbidden, we are entitled to withdraw from the contract at any time. In this case, the customer has no right to compensation.

The export of the goods of Bikar-Metalle GmbH may (on the grounds of their properties and condition or their purpose, for example) be subject to authorization by the relevant export control authorities. If delivery to the customer requires authorization to be issued by the relevant export control authorities (export authorization or shipment authorization), any delays in delivery because of the time taken to complete such an authorization process are not our responsibility and do not entitle the customer to withdraw from the contract or make any claims for compensation. The same applies in the event of failure to obtain such authorization.

Before any onward delivery of the goods sold or supplied to the customer by us, the customer undertakes to comply strictly with all relevant export regulations and provisions of the EU and all EU member states. Insofar as the customer must obtain export authorization thereafter, the customer must do so in his own name and at his own expense.

The customer shall ensure in particular that goods supplied by us are not intended for use relating to armaments, nuclear technology, weapons technology (including missile technology), unless a valid export authorization has been issued by the

relevant export control authorities for a delivery for one of these purposes.

The customer further undertakes to draw the attention of all recipients of goods supplied by us to the customer in writing of the requirement to comply with the relevant export regulations of the EU and of EU member states.

20.) Place of fulfillment, place of jurisdiction, applicable law

The place of fulfillment for both contracting partners is Bad Berleburg.

The place of jurisdiction for all differences of opinion arising from contracts with the customer is Bad Berleburg if the latter is a merchant, a legal entity under public law or a special fund under public law.

However, we are also entitled to take action against the customer at his place of residence.

The law of the Federal Republic of Germany applies.

Application of the UN Convention on the International Sale of Goods is expressly excluded.

The contract language is German.

21.) Severability clause

If a part of this contract is invalid for any reason, the validity of the remaining part of this contract is not affected. In this case, the parties undertake to reach an agreement that comes as close as possible to the invalid provision.

22.) Data protection provisions

We are entitled to archive written electronic communications. The data is treated in confidence, in accordance with the relevant data protection legislation. We wish to point out that we process personal details that we receive in relation to the business relationship or in connection with it, whether they are provided by you or by third parties, in accordance with the German Data Protection Act. They are treated in the strictest confidence by us and are used exclusively for the purpose of processing your queries, orders and deliveries.

They are used exclusively by employees and authorized trading partners of the company BIKAR-Metalle GmbH or its subsidiaries.

BIKAR-Metalle GmbH is entitled to arrange for your details to be checked by an association that protects the interests of commodity credit lenders, e.g. Creditreform.

Data is processed and saved in accordance with German data protection legislation.

You may receive full information about the data stored free of charge, insofar as it concerns you. Personal details shall not be passed on to third parties. This agreement constitutes consent as defined by the Data Protection Act.

23.) Validity and commencement

These Terms & Conditions of Sale and Delivery come into force with immediate effect and replace all previous terms & conditions of sale and delivery and general terms & conditions.

Bad Berleburg, 7th May 2014