

# General Terms and Conditions

## ABP-Beyerle GmbH

### Version: September 2008

#### 1. Scope of application

These general terms and conditions apply to all our offers, quotations and contracts on supplies, deliveries and services even if they are not explicitly referenced later during business relations. The following conditions only apply to consumers insofar as consumer protection regulations are not contradictory. In such cases, the legal regulations apply to consumers. Deviating agreements or the ordering party's own terms and conditions are only binding for us after our explicit confirmation in writing. The reservation of ownership in Clause 10 cannot be limited in any cases.

#### 2. Prices

2.1. The basis is the current price list. The prices apply per meter or piece plus the added value tax applicable on the day of delivery. Deliveries are made in packing Dimension only.

2.2. The agreed remuneration must always be paid. If the price at the time of the rendering of the service or performance increases due to a change in the market price or through an increase by the third parties involved in the service or performance, the increased price applies. If that is 20 % or more above the agreed price, the customer has the right to withdraw from the contract. This right must be asserted promptly after the increased price has been communicated. Additional claims are excluded.

2.3. Freight and packing costs will be additionally charged to all customers. The delivery is freight collect at the cost of the recipient. Orders that are not bound to deadlines will be shipped as inexpensively as possible.

#### 3. Small order surcharge

For reasons of economic viability, orders up to € 50 -- net goods value can only be executed against a processing fee of € 10 -- lump sum net.

#### 4. Dimensions and weights

Dimension and weight specifications are made subject to slight technically related non-compliances.

#### 5. Offers/quotations/orders

Order acceptance is accepted exclusively through our written order confirmation. Oral agreements are non-binding. We are bound to our offer for two weeks from date of receipt. For call orders, if no other agreement has been made an acceptance deadline of twelve months from the date of the order confirmation applies. If there is no acceptance by then, we are entitled to demand the outlays of the sales price from the customer and to organize the deliveries based on our discretion. The alternative according to § 326 BGB, to withdraw from the contract or to demand indemnification due to failure to perform remains unaffected.

6. Delivery deadlines, partial performance, delivery quantities for special parts Delivery dates and delivery deadlines apply according to the order confirmations. They are considered maintained if the goods depart from our factory on the agreed day or the day of the deadline

expiration. The delivery deadline starts with the date on the order confirmation. If a collaborative obligation by the customer is necessary, the deadline does not start before the customer has met this obligation. We are also entitled to partial deliveries to a reasonable degree. Indemnification for delivery delays for which we are not responsible is excluded. That especially applies to unpredictable stoppages, malfunctions in the conveyance ways, a lack of manufacturing material and energy, strikes and/or lockouts. If the delivery dates or deadlines exceed more than two weeks for these reasons, both parties are entitled to withdraw from the contract with a written declaration. Apart from that, liability is limited to criminal intent and gross negligence. The disclaimer of liability only applies to minor negligence for private consumers. If assertion of the customer rights requires setting a reasonable grace period, it is to be fixed as at least two weeks. Non-compliances in the number of pieces and weight of up to 10% of the order amount are permitted for customerspecific parts.

## 7. Risk of conveyance

All deliveries are made at the customer's risk as soon as the goods are handed over to the carrier, the haulage contractor or any other person or establishment for implementing delivery. That also applies if the goods are shipped in our company-own vehicles. Transporting the goods within our company location is also considered a destination purchase at the above-mentioned terms.

## 8. Notification of defects, warranty, breach of duty, statute of limitations

### 8.1 Warranty

Obvious defects must be reported within eight days after receipt of the goods. The deadline is six months from the receipt of the goods for latent defects. In both cases, notification of the defect is to be in writing. The faultiness of one part does not entitle to objection to the entire delivery. Defective goods will be replaced upon return or repaired if, especially from the customer's point of view that is acceptable in terms of time. The customer is entitled to reduce the remuneration or to demand cancellation of the contract only after two failed attempts at repair or in if a replacement delivery is impossible.

### 8.2. Breach of duty

Our liability for contractual breaches of duty and from offences is limited to intent and gross negligence as well as to the replacement of typical damages. That does not apply to the customer's life, body or health, to demands due to breach of cardinal obligations and compensation for damage caused by delay (§ 286 BGB (German Civil Code)). We are liable for any degree of blame in this sense. If this involves damage that does not result from harm to the customer's life, body or health, however, we are only liable for typical damages.

### 8.3. Statute of limitations

The warranty is one year starting with the hand-over of the goods or with manufacture in the factory. Compensatory claims by the customer due to a defect expire one year after handing over the goods or manufacture in the factory. That does not apply if we have acted culpably or in cases of injury to life, body or health. Insofar as a liability for damages that is not based on the injury of the life, body or health of the customer is not excluded for minor negligence, such claims expire within one year, starting with the origination of the claim.

## 9. Payment conditions

The invoice amounts are due immediately after the invoice is written and are to be paid latest 30 days after delivery. After the above-mentioned deadline has passed, the customer is in

default of payment.

A cash discount of 2% is granted for payments made within ten days of the invoice date. The latter does not apply to payments made by promissory notes or checks. In cases of default, without requiring evidence, interest of 8 percentage points over the base interest rate applicable at that time is due from companies and 5 percentage points from consumers. Lump sum costs of €2.50 each will be charged for every reminder. If the payment conditions are not complied with, especially after agreed payment installments, all demands immediately become due. The same applies to check and promissory note protests, applications for insolvency proceedings and all other circumstances that are suggestive of a decline in the customer's assets. The above interest regulation applies from the time of default. Checks and promissory notes are accepted only on account of performance; promissory notes only after prior agreement and without any guarantee for correct submission and protest. Discount and note charges are charged to the customer and are due immediately.

## 10. Retention of title

10.1. In contacts with consumers, we reserve the title to the goods until complete payment of the sales price has been made.

10.2. If the customer is a company, we reserve the title to the goods until all demands against the ordering party from the business relation have been satisfied even if the concrete goods have already been paid.

10.3. If the customer is a company, it - in the case of resale/refinement of the reserved goods - already now cedes to us as security all demands and other claims against its customers, which arise through the named transactions including ancillary cost, until fulfillment of all our demands. In case of refinement, its alteration or its connection with other objects, we immediately acquire ownership of the manufactured object, namely in the proportion of the title-reserved goods at the value of the new object at the time of processing or refinement. Upon demand, the customer is obligated to name third party debtors and to notify about the conveyance. The right of the customer to sell or process the goods in normal business dealings expires with cessation of payments, application for or opening of bankruptcy proceedings as well as an insolvency plan proceeding.

10.4. Upon access of third parties, especially attachment of the reserved goods, the customer is to immediately inform and transfer the documents needed for an intervention; that also applies to impairments of other kinds. Independent of that, the customer is to notify the third party in advance about the extant rights on the goods. If the customer is a company, it bears all costs for replacement of the goods as well as an intervention if the third party is not in a position to reimburse these.

10.5. If our demand of the value of security surpasses our claims against the customer by more than 20 %, upon its demand and based on our choice we can release the securities we are entitled to the corresponding scope.

## 11. Samples and drawings, patents

The supplier retains the property rights and copyrights to images, drawings, sketches and other documents and samples. The documents are to be returned immediately upon request and must not be passed on to their parties without the supplier's consent. Sample items are to be returned within two months; otherwise the supplier is entitled to invoice them. Special versions of sample items will only be delivered against invoice.

#### 12. Product liability

If the delivered goods were not manufactured by the seller itself, all demands involving the product liability are passed on to the manufacturer. We would be glad to broker between both parties in such cases.

#### 13. Data privacy

The customer consents to our processing of his/her/its private information as required by the contract relationship.

#### 14. Place of fulfillment, legal venue

If the buyer is a qualified merchant, legal public entity or special fund under public law, it is agreed that the place of fulfillment and legal venue for all disputes between the parties resulting from the contract relationship is the headquarters of ABP-Beyerle GmbH.

#### 15. Legal validity

If a stipulation in these terms and conditions or a clause in the frame of other agreements are or become ineffective, the validity of the rest of the clauses or agreements is not affected. Instead of the ineffective clauses or agreements, suitable regulations are considered agreed to that come closest to the purpose of the contract. The same applies if gaps needing to be complemented become apparent.

#### 16. Choice of law

The laws of the Federal Republic of Germany apply to the legal relations between our customers and us. They do not apply if specific consumer regulations in the country of nationality (permanent residence) of the customer are more favorable (Art. 29 EGBGB (Introductory Act to the Civil Code)). The use of the United Nations Convention on Contracts is excluded.