

Terms and Conditions of Sale and Delivery of bielomatik Leuze GmbH + Co. KG

(05/2007)

1. General

- 1.1 The following terms and conditions of sale and delivery apply to all our deliveries and services. The validity of any conditions applied by the Buyer is excluded, even if we have not formally objected. Any deviations and additions by the Buyer are only valid, if we have expressly confirmed these in writing and if we execute the delivery. They apply only to the business transaction for which they were made.
- 1.2 The following terms and conditions apply also to all future transactions with the Buyer.

2. Conclusion of contract

- 2.1 Statements made prior to placement of order within the framework of order processing, in particular relating to performance, consumption and other detail data are only deemed binding if confirmed as such in our confirmation of order or subsequently in writing. Statements contained in brochures and advertisements do not constitute an assurance of warranted characteristics. Individual verbal agreements made shall remain in force.
- 2.2 Our offers are subject to change. Following placement of order by the Buyer, the Agreement is validated by our written confirmation of order or, where no confirmation of order is issued, by our delivery.
- 2.3 We reserve the property rights and copyright of any tenders, drawings and other documents; they shall not be made available to third parties.
The Buyer is granted the non-exclusive right to utilize standard software with the agreed performance features in unmodified form on the agreed devices. The Buyer may make two back-up copies of such software without the need for an express agreement.
- 2.4 Our representatives and agents have no authority to make any guarantees as to characteristics or durability, or any other type of guarantee or to conclude agreements in deviation from our Terms and Conditions. Any such agreements shall only be deemed valid with our written confirmation.

3. Prices

- 3.1 Our prices are ex works excluding packaging unless otherwise agreed (customs unpaid in the case of foreign deliveries).
- 3.2 VAT shall be invoiced separately on the day of delivery at the rate valid at the time.
- 3.3 If unforeseen increases of material prices, wage costs, transport costs, taxes or price adjustments occur between the conclusion of the contract and delivery or performance of services, we shall be entitled to adjust our prices to take these factors into consideration unless delivery is due to take place within 4 months after conclusion of contract. If the Buyer implements changes following conclusion of contract, we shall be entitled to adjust the prices to take into account the additional costs incurred as a result of the change.
- 3.4 In the event that the planned delivery date must be extended by more than three months, for reasons over which we have no control, we reserve the right to make price changes corresponding to the changes in wage and material costs between the time of the order confirmation and the actual delivery date.

4. Packaging and identification

- 4.1 Transport packaging shall be sent back to our manufacturing plant at no cost to ourselves.
- 4.2 We shall only take back packaging from distributors in our manufacturing plant.
- 4.3 If the Buyer places additional markings on our product or combines the product with other products, he shall release us from any responsibility in the event that the state authorities prosecute due to a breach against European marking regulations.

5. Partial deliveries, schedules, delayed delivery

- 5.1 Partial deliveries and partial services are permissible, provided the Buyer can be reasonably expected to accept this.
- 5.2 The deadlines and schedules provided by us are not binding unless expressly agreed otherwise in writing. The schedule or deadline shall be deemed adhered to provided the consignment is dispatched, the Buyer is informed of its readiness for dispatch or it has

been collected within the schedule or deadline.

Our obligation to execute the agreement and deliver shall be subject to settlement by the Buyer of all the agreed payments. Failure on the part of the Buyer to make payments, in particular agreed down payments, or to provide agreed cooperative support by the agreed dates, shall result in a corresponding delay of the delivery date.

- 5.3 We shall not be liable for delivery and performance delays due to force majeure and due to unforeseen circumstances which make delivery unduly difficult or impossible even for agreed deadlines and schedules. They shall entitle us to extend the period of delivery or performance for the duration of the impeding circumstances plus a reasonable start-up period. This shall also apply for unforeseen circumstances which affect the operation of a supplier for which neither he nor we can be deemed responsible.
- 5.4 If deadlines or schedules which are binding according to section 5.2 above are exceeded by us, the Buyer shall be entitled to rescind the Agreement over the respective delayed delivery or to demand compensation provided that we fail to meet a reasonable extended deadline set by the Buyer and accompanied by a threat of refusal.
- 5.5 If a contractual penalty is agreed, a contractual penalty provision must be stated on acceptance.
- 5.6 In case of delayed delivery, the Buyer is obliged to declare within a reasonable period, in response to a request from us, whether he intends to rescind the Agreement and/or to demand compensation in lieu of performance, or to insist upon delivery.
- 5.7 Both claims to damages on the part of the Buyer due to delayed delivery and also claims to damages in lieu of delivery shall be excluded for any case of delayed delivery, also after expiry of any delivery deadlines imposed upon us. Irrespective thereof any claims of the Buyer in cases of mandatory liability due to willful intent, gross negligence, culpable injury to life and limb or damage to health and in cases in which we have assumed a guarantee for the delivery period or where we are mandatorily liable for other reasons, such as under the Product Liability Act or the General Equality of Treatment Act; this shall not be linked to any change of the onus of proof to the detriment of the Buyer.

6. Passing of risk, Acceptance

- 6.1 In the case of deliveries, the risk shall pass to the Buyer from such time as the delivery is handed over to the person effecting transport or has left our warehouse in a dispatch. If dispatch is delayed at the request of the Buyer or for reasons for which he is responsible the risk shall pass to the Buyer when the goods are reported ready for dispatch.

- 6.2 In the case of other services the risk shall pass to the Buyer as soon as we have informed him of completion. Formal acceptance shall only take place if this has been agreed or if we expressly demand this.
- 6.3 For sales contracts with an additional contract work service the passing of risk with regard to the supplied parts shall be governed by section 6.1 and with regard to the service in accordance with section 6.2. The provisions of § 644 II BGB (German Civil Code) shall not be affected.

7. Notification of defects and warranty

- 7.1 The Buyer shall inspect received deliveries immediately on their arrival for defects and warranted characteristics. Obvious defects in the delivery shall be reported to us by the Buyer immediately, but within seven days after receipt of delivery at the latest. Concealed defects shall be reported in writing within seven days of their discovery. Otherwise, the delivery shall be deemed to have been approved.
- 7.2 The Buyer shall afford us the opportunity to review the complaint, and in particular shall make available damaged goods and their packaging to us for inspection. Should the Buyer refuse to do so, we shall be exonerated from any liability for the defect. Should this be urgently necessary in case of danger to operational safety or to avert disproportionately high damage, the Buyer shall be entitled to remedy the defect himself or through the auspices of third parties and to demand reimbursement of the costs incurred. The same shall apply in the event that we delay remedy of the defect. In either event, the Buyer is obliged to inform us without delay.
- 7.3 Should the Buyer demand subsequent fulfilment following the occurrence of a defect, we may at our own discretion either remedy the defect ourselves or supply an undefective replacement. Replaced goods shall be surrendered to us. Should a remedy or replacement delivery not be possible or be refused, or if it does not take place or fails for reasons for which we are responsible within a reasonable period of grace set by the Buyer, the Buyer may at his discretion either withdraw from the Agreement or reduce the purchase price adequately.
- 7.4 Of the costs incurred for remedy or replacement delivery, provided the complaint proves to have been justified, we shall bear the costs of the replacement including transport as well as reasonable costs for removal and installation costs. Any other costs incurred shall be borne by the Buyer himself. This applies also to greater expense incurred due to subsequent introduction of the goods to a different location than the place of business of the Buyer, excepting where such introduction is in keeping with the intended purpose of the goods. Any necessary installation and travelling expenses incurred in connection with unjustified complaints shall be borne by the Buyer.

7.5 We shall not be liable for damage or defects occurring in the goods as a result of faulty operation, negligent maintenance, natural wear and tear, the processing of defective parts or parts not in compliance with the drawing, whose dimensions exceed the defined tolerance levels and similar causes, excepting where we may be shown to be responsible for their occurrence.

7.6 Any further-reaching claims on the part of the Buyer, in particular to compensation for damages in lieu of performance and to any other direct or indirect damage - including collateral or consequential damage - no matter what their legal grounds, are excluded. Claims of the Buyer shall remain unaffected thereby where

- a) a legal or material defect is maliciously concealed by us or where we have provided a guarantee of the durability or quality of the goods;
- b) the damage is intentional or due to gross negligence on our part, on the part of our legal representative or vicarious agent, or due to at least one negligent infringement of material contractual obligations by such persons, whereby a material contractual duty is deemed to exist if the exclusion from liability refers to a duty the fulfilment of which is central to the execution of the agreement and compliance with which is a reasonable assumption for the Buyer;
- c) culpable violation of obligations on our part or on the part of our legal representatives or vicarious agents has resulted in injury or damage to health, or
- d) we are mandatorily liable for other reasons, such as under the Product Liability Act or the General Equality of Treatment Act.

In the case of negligence, however, our obligation to provide compensation is limited to contractually typical foreseeable damage.

7.7 The stipulations outlined under Section 7.6 above apply analogously to direct claims against our legal representatives or vicarious agents.

7.8 All claims due to defects asserted by the Buyer including compensation claims as outlined in Sections 7.6 and 7.6 above shall lapse after one year following delivery of the goods to the Buyer. For replacements and repairs, the limitation period is 12 months. However, this period shall run at least up until expiry of the original limitation period for the delivered object. The limitation relating to liability for defects in the delivered objects shall be extended by the period of interruption of operations caused by the repair or remedial work. The regulations laid down in this Section shall apply excepting where longer periods are prescribed by the law in accordance with §§ 438 para. 1 no. 1 (construction and structural materials) and 634 a) Para. 1 No. 2 (construction defects) BGB (German Civil Code).

- 7.9 In cases where we make available test specimens or samples, the properties of the test specimens or samples alone shall not form the basis for a contractual guarantee.
- 7.10 Adherence to all types of safety regulations (VDE, Test Inspectorate, Professional Associations etc.) shall be exclusively the responsibility of the Buyer.

8. Reservation of title

- 8.1 The delivered goods shall remain our property until such time as the purchase price and all other claims of whatever sort arising from the business relations between ourselves and the Buyer (provided the Buyer is a trader) or arising from the contractual relationship (if the Buyer is not a trader) have been settled in full.
- 8.2 The Buyer is entitled to resell and/or combine the reserved goods with other goods in the normal course of business, unless otherwise excluded in the following conditions.
- 8.3 The Buyer hereby assigns to us any claims arising from the resale of the reserved goods to the amount of the purchase price agreed with us by way of security; we hereby accept this assignment. We are only in agreement with resale provided an effective transfer of claim may be effected on the basis of the above assignment declaration. If the reserved goods are resold with other goods irrespective of whether before or after having been combined with these, this advance assignment of claims to us shall only be valid to the amount of the invoice value of the reserved goods which are sold together with the other goods.
In the event of contracts relating to services rendered, with which our reservation of title lapses on their fulfilment, the Buyer hereby assigns its claim to remuneration to the extent of the invoiced value of the reserved goods which have been processed; we hereby accept this assignment.
- 8.4 The Buyer shall be entitled to collect the claims assigned to us for our account in his own name until notified otherwise. This right to collect shall be cancelled even without our express notification, if the Buyer does not meet his obligations to us, the conditions within the meaning of section 8.7 arise or there is cause to believe that the collected amounts cannot be passed on to us.
In the case of down payments on remuneration claims which have been partially assigned to us, the Buyer is obliged to offset the down payments initially against the part of the claim which has not been assigned to us. Between ourselves and the Buyer, down payments collected initially by the Buyer shall always be deemed to constitute repayment of the partial amount not assigned to us.
On request, the Buyer shall notify us in writing of the whereabouts of the goods subject to our reservation of title. He shall also notify us of any other beneficial owners and debtors with regard to the claim assigned to us, submit to us any required documentation and inform the debtor of the assignment at our request. The Buyer shall provide us with notices of assignment at any time.

He is obliged to notify us without delay of any impairment to our rights arising from reservation of title or any other securities, in particular pledges.

- 8.5 Should the reserved goods be combined with other goods which do not belong to us (installation), we shall be entitled to co-ownership of the new object in the ratio of the value of the reserved goods to the other goods at the time of the combination. If the Buyer purchases the sole ownership to the object, the parties to this agreement are already agreed that the Buyer shall assign us the co-ownership of the new goods in the ratio of the value of the order of the combined reserved goods to the value of the rest of the goods. If requested, the Buyer shall make available the applicable documents relating to the determination of our share of co-ownership. It is hereby agreed that the Buyer shall keep safe the goods of which we have co-ownership free of charge.
- 8.6 For payments using a cheque-bill-of-exchange procedure our co-ownership and security rights shall not be affected and shall remain valid until our liability from the bill-of-exchange or cheque has ended.
- 8.7 If the Buyer does not comply with the stipulations of this agreement, especially in case of delay in payment of a claim resulting from the business relationship and if the Buyer suffers financial collapse, stops payments, if insolvency proceedings are initiated, or if the Buyer asks his creditors to settle with him out of court, we may demand the immediate return of our property or where applicable assignment of the Buyer's claim to surrender of the property without prejudice to our other rights. The return of goods to us cannot be construed as termination of the contract unless §§ 358, 359 BGB (German Civil Code) is applied and we do not offer to compensate the consumer with the usual sales price of the goods at the time of their removal.
- 8.8 The return of purchased goods to us or assertion of our reservation of title is not conditional upon our withdrawal from the Agreement.
- 8.9 We shall release the securities to which we are entitled if requested to do so by the Buyer in so far as the value of these exceed outstanding claims by over 10%; we shall be free to release the security of our choice.

9. Invoices, terms and conditions of payment

- 9.1 Invoicing shall take place on dispatch. If prepared goods cannot be dispatched for reasons lying within the Buyer's sphere of risk, the invoice shall be submitted and shall fall due for payment notwithstanding.
- 9.2 Our invoices fall due for payment within the framework of the agreed trade credit within 30 days at the latest without deductions of any kind. Discounts for cash payment

shall only be granted by express agreement. Even if agreed, they shall only be admissible provided all open invoice amounts have been settled or are simultaneously settled by the Buyer.

- 9.3 In the event that invoices are not paid within 30 days of receipt of invoice, but by 40 days after delivery at the latest, the Buyer shall be deemed in default of payment, entitling us to charge interest on default as well as any other further-reaching damage due to default.
- 9.4 Bills of exchange are accepted by us only on the basis of a special agreement. Bills of exchange or cheques shall always only be accepted on account of performance.
- 9.5 The Buyer shall only be entitled to offset against undisputed claims or claims which have been validated by due legal process; the same applies for a right of retention in accordance with § 273 BGB (German Civil Code) against claims not based on the same contractual relationship.

10. Design changes

We reserve the express right to undertake design changes at any time but we are not obliged to undertake such changes on products which have already been delivered.

11. Other compensation claims

- 11.1 Any claims to damages or compensation of expenses which are not regulated in the Agreement including these Terms and Conditions (hereinafter called "Compensation claims"), no matter what their legal basis, in particular due to infringement of obligations arising from the contractual relationship and due to tortuous action, are excluded.
- 11.2 The claims of the Buyer shall remain unaffected in as far as we are mandatorily liable e.g. under the Product Liability Act or the General Equality of Treatment Act, in cases of willful intent, gross negligence, injury to life and limb or damage to health or due to infringement of material contractual obligations. Cases in which exclusion from liability refers to a duty the fulfilment of which is central to the execution of the agreement and compliance with which is a reasonable assumption for the Buyer shall constitute a material contractual obligation. Compensation claims due to violation of material contractual obligations are, however, restricted to contractually typical foreseeable damage provided no willful intent may be said to exist and provided no liability exists due to culpable injury to life or limb or damage to health. These regulations shall not be linked to a change in the onus of proof to the detriment of the Buyer.

12. Applicable law, legal venue, severability

12.1 The law of the Federal Republic of Germany excluding CISG shall apply.

12.2 Place of performance for all liabilities and the legal venue is Neuffen, if the Buyer is a business entity, an entity under public law or a special fund under public law. With Buyers from abroad, the international competence of German courts is agreed. We shall also be entitled to bring actions at the Buyer's legal venue. The legal venue agreement also applies to cheque and bill-of-exchange actions.