

# General Terms and Conditions of Business and Supply of BEx-Solution GmbH

## I. Scope, conclusion of the contract

1. These General Terms and Conditions of Supply apply to all goods, products and services of BEx-Solution GmbH (hereinafter: "Supplier") unless special terms and conditions apply to specific deliveries. General terms and conditions of the customer will only apply if the Supplier has expressly consented to their application in writing. Any collateral agreements must be in writing. Contracts are only concluded when order confirmation is issued in writing or transmitted electronically. The Supplier's offers are not binding until this point unless they are time-limited.

2. Where there is an on-going business relationship, the General Terms and Conditions of Business and Supply of the Supplier, as amended, also form part of the contract even if they are not expressly referred to again.

## II. Delivery, passage of risk, delayed delivery

1. The delivery period commences at the time when the contract is concluded and the type and scope of the deliveries has been fully clarified.

2. If the delivery or handover is delayed for reasons for which the customer is responsible or if the customer is otherwise in default with acceptance, the risk will pass to the customer.

3. Where there are delivery delays for reasons for which we are not responsible, the delivery period will be extended by at least this period of time.

4. For default with payment the customer will owe default interest of 8% above the respective valid base interest rate of the ECB.

5. Contractual penalties for default with delivery will only apply if they have been agreed in writing in advance.

6. The customer may not refuse to accept services on grounds of minor defects. Unless otherwise agreed in writing, part deliveries are permissible.

7. Exporting deliveries from Germany can be subject to a permit requirement. Our delivery duty is subject to such permits being issued.

8. Deliveries are made "ex works" (EXW Incoterms 2010) unless expressly agreed otherwise. If the Supplier has an obligation to ship the delivery, it has the right to determine the method and mode of shipment. On request shipping insurance will be taken out for the delivery at the cost of the customer.

9. The risk will pass - also in the case of part deliveries - to the customer when the delivery is dispatched or collected at the latest.

## III. Warranty

1. The Supplier warrants that the delivery is free from material and manufacturing defects and has the contractually agreed characteristics at the time of passage of risk. When the customer receives the delivery it must check the goods for defects and quality without undue delay. Where there are obvious defects, the Supplier must be notified of these within 10 calendar days of the delivery in writing. If the customer breaches its duty to inspect the goods and notify defects, the delivery will be regarded as approved despite the defect concerned.

2. The warranty period is 12 months from delivery. When making a complaint, proof of the date of purchase must be provided in the form of an invoice. The warranty does not extend to normal wear and tear. The warranty will no longer apply if the customer changes, opens or otherwise manipulates the goods delivered.

3. During the warranty period the Supplier has the right to subsequently improve the defective goods twice free of charge. Replacing the goods in their entirety or in part is also permissible.

4. The Supplier reserves the right to modify the commercial goods, even after conclusion of the contract, in a manner which the customer can be reasonably expected to accept, in order to bring them into line with the most recent state of the art, if corresponding changes to the state of the art at short notice should affect the goods in question.

## IV. Liability

1. The Supplier is liable on the basis of the German Product Liability Act (*Produkthaftungsgesetz*) as well as for injuries to life, body and health and for intent on the basis of the statutory provisions, irrespective of the legal grounds; the same applies to any gross negligence by its statutory representatives and key employees.

2. The customer does not have a right to bring compensation claims or claims for reimbursement of expenses; this especially applies to consequential damage such as production downtimes, loss of use or lost profit.

3. The procedural distribution of the burden of proof remains unaffected by this provision.

## V. Price and payment

1. The Supplier's list prices applicable at the time of delivery apply unless otherwise agreed. All prices are in EUROS net.

2. The prices are "ex works" (Incoterms 2010), including standard packaging, excluding insurance and the respective valid VAT is payable on top.

3. Our invoices are due for payment 14 days from the date of the invoice net. Invoices for pure wage payments (e.g. repairs) must be paid immediately net.

4. Claims against the Supplier may not be assigned to third parties without our prior written consent.

5. The customer can only offset claims to which it is entitled which are undisputed or which have been established by a court of law.

## **VI. Retention of title**

1. The deliveries will remain the property of the Supplier until payment has been made in full and must be surrendered immediately on request.

2. The customer does not have a right to pledge the reserved goods or assign them as security. The customer may only sell the reserved goods on in the framework of the ordinary course of business. For the event of sale to a third party, the customer hereby assigns all claims arising as a result against its customer in full to the Supplier as security for our claim. The customer will notify the Supplier of any access by third parties to the reserved goods or the claims assigned to the Supplier without undue delay and inform third parties about the rights of the Supplier.

3. If the customer defaults with one or more than one payment in whole or in part, if it stops making payments or if insolvency proceedings are opened over its assets, the customer may no longer dispose of the reserved goods.

4. The reserved goods, which are our property, must be insured by the customer against damage, destruction and loss. The rights arising from these insurance policies must be assigned to the Supplier.

## **VII. Property rights**

1. The Supplier reserves all existing property and intellectual property rights as well as its know-how in all offer documents as well as in all documents and information which the customer receives in the framework of the sales and delivery process.

2. The Supplier retains the copyright in all documents provided by the Supplier. Publication and reproduction, also of parts, is only permitted with the Supplier's written consent.

## **VIII. Return of deliveries**

1. The Supplier grants a right of return of 14 days for goods not used. The time limit for returning the goods will be deemed respected if the goods are sent by this date (invoice date). The return delivery will only be accepted by the Supplier if the postage costs have been paid. The right of return does not apply to discounted goods or promotional offers.

## **IX. Data storage**

1. Pursuant to section 28 Federal Data Protection Act (*Bundesdatenschutzgesetz*), the Supplier hereby informs the customer that, in the course of the business dealings, required data will be processed and saved using IT systems in accordance with section 33 Federal Data Protection Act. Personal data are naturally treated confidentially.

## **X. Rental/leased equipment**

1. Rental or leased equipment is only provided to the customer for the term of the rent/lease; they are not the property of the customer. After the end of the rental/lease period, the equipment must be sent back to the Supplier without undue delay and free of costs with proof of sending. For the rental/lease period an amount determined in a separate agreement will be due 14 days after commencement of the rental/lease period. If the return shipment is delayed, the period can be recalculated on the basis of the rental/lease agreement.

2. The Supplier has the right to invoice the customer for rental/leased equipment not returned up to a maximum amount of the current list price.

## **XI. Place of jurisdiction and applicable law**

1. German substantive law excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG) applies exclusively to orders placed with the Supplier.

2. If the customer is a businessman, the sole place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is the place of the Supplier's registered office. However, the Supplier is also entitled to bring claims at the place of the customer's registered office.

## **XII. Final provisions**

1. Should any of the above provisions be or become invalid, this will not affect the validity of the remaining provisions. In place of the invalid provision a provision will apply which corresponds, as closely as possible, to the economic intent of the agreement and which takes reasonable account of the interests of both parties.

Date 26 June 2019