

General Purchase Terms and Conditions

I. General, Offers and Information of Contract

1. These general purchase terms and conditions apply for all bookings and orders of BUSE Gastek GmbH & Co. KG (in the following referred to as "**Principal**"), irrespective of the legal grounds, with their Contractor if no differing agreements have been made in a single case. They are part of each contract by and between the Principal and the Contractor and also apply for future business relations, even if they are not agreed explicitly. These terms and conditions are deemed to be agreed upon at the latest with the execution of the order.
2. Any differing general terms and conditions of the Contractor are herewith explicitly objected if they do not match with the general purchase terms and conditions of the Principal. Such general terms and conditions are only binding if they are explicitly agreed upon with the Principal in the individual case; such agreement is only binding for the individual case and does not have any binding effect on future transactions.
3. The authorized agents of the Principal are only entitled to written orders. Orders are only binding for the Principal if they are made in writing or are confirmed in writing. The acceptance of a delivery without prior written order and/or written order confirmation does not lead to a formation of a contract.
4. Orders have to be confirmed by reference to a binding price and a date of delivery within five working days. If now order confirmation is made within such period the dates of the orders are deemed to be accepted.
5. These general terms and conditions shall only apply *vis-à-vis* entrepreneurs in the meaning of Sec. 310 para 1 German Civil Code (*Bürgerliches Gesetzbuch – BGB*).

II. Prices, Terms and Payments, Packaging

1. Agreed upon prices are fix. Increases of prices are only valid *vis-à-vis* the Principal if they have been confirmed by the Principal in writing.
2. If not agreed differently in writing, the prices include delivery DDP (Incoterms 2000), including packaging, customs, insurance and assembly. Return of reusable packaging is not prepaidly effected by the Contractor. V.A.T. is separately shown.
3. Payments will be made in the form chosen by the Contractor and are always made under the condition of invoice verification.
4. Invoices can only be handled by the Contractor if they show the order number – like made in the order. The Contractor is responsible for any consequences arising of the non-adherence to this obligation.
5. Invoiced amounts will be satisfied by the Principal, if not agreed differently in writing, within 14 days calculated from the arrival of the goods and the receipt of the invoice with 3 % discount, within 30 days with 2 % discount or within 90 days after receipt of invoice net. The agreed upon date is only decisive even if the contractor delivers before the agreed upon date of delivery even if the Principal accepts the premature delivery.
6. All rights to offset or retain payment provided by applicable law are reserved by the Principal. Only setting-off with finally determined or claims accepted by the Principal are valid.
7. The Principal is not in default as long as the Contractor is in default with the performance of obligations *vis-à-vis* the Principal even out of different agreements.

III. Delivery, Passing of Risk, Acceptance, Times of Delivery

1. The times of delivery or period of delivery stated in the order is binding if nothing different is agreed explicitly in writing.
2. The Contractor is obliged to inform the Principal without undue delay in case circumstances occur or become visible which make it evident that the agreed upon time of delivery may not be meet.
3. In case the goods are delivered before the agreed time the Principal is entitled to return the goods on costs of the Contractor.
4. Partial delivery is not permissible if nothing different is agreed upon in writing. If partial delivery is accepted by the Principal this does not lead to an independent order, but payment is only effected after the fulfilment of the whole order.
5. If a delivery period is not agreed the Contractor is obliged to performance within a period of 10 working days after order date. The Contractor is free to prove that a longer period of delivery is reasonable.
6. Sample deliveries have to be marked as such. Serial delivery may only be started after the Principal has approved with such samples. Alterations may only be made with consent of the Principal. Drawings, inspection requirements and technical requirements of delivery of the Principal are part of contract and will be made available to the Contractor upon demand.

7. Delivery is made on risk of the Contractor. The risk of loss and damage of the goods passes to the Contractor upon delivery at the agreed place of delivery.

IV. Examination for Faults, Liability

1. The Contractor warrants that all goods delivered under this agreement conform to the agreed specifications. In particular, the features and specifications of each sample offer, the legal and agreed upon quality conditions as well as the commercial quality conditions of the delivered goods are deemed to be agreed specifications of the goods.
2. The Principal will examine the goods within adequate time as regards differences in quality or quantity. The objection (Sec. 377 German Commercial Code) is made in time if it is made within a period of ten working days after delivery of the goods or with hidden faults after discovery and received within such period with the Contractor.
3. The costs arising out of examination of defective goods have to be borne by the Contractor.
4. The signature of a shipping note as regards the amounts of delivered goods, its weights and measures as well as adherence to the contract of the delivered goods is not to be deemed an acknowledgement of the adherence to contract and data.
5. Return of objected goods by the Principal is made on account and risk of the Contractor. The risk passes to the Contractor at the time of handing over to the agreed shipper, carrier or each other entity responsible for the delivery.
6. In case the Contractor does not fulfil its contractual obligations in accordance with the agreed upon terms and stipulations, the Principal is without limitations entitled to all legal claims. This applies in particular in case the obliged performance is not, not when due or rendered in a faulty way. The Principal is entitled to claim after his choice remedy of defects or replacement delivery by the Contractor. In this case, the Contractor has to bear all disbursements required for remedy of defects or replacement delivery, in particular transport-, road-, labour- and materials costs. A limitation of the costs to the value of the order is herewith objected. The right to claim further damages remains reserved.
7. In case the Contractor gets into default, the Principal is irrespective of the rights under this paragraph entitled to claim for each started day of default 0.2 % of the prices of the goods but a maximum amount of 5 % of the prices of the goods as flat rate default damage for the damage caused to the Contractor by the delay, without a proof of the damage being required by the Principal. The Contractor is free to prove that there is less damage; the flat rate is in such case reduced accordingly. The right of the Principal to claim compensation of an individual caused damage remains reserved.
8. The Principal is entitled to a recession of the whole agreement in case of orders with partial deliveries if the Contractor has fulfilled his contractual obligations as regards a partial delivery not as required unless only an immaterial part is concerned.
9. The warranty period is – if no differing agreement is made – 36 months, calculated from the receipt of the goods with the Principal. A longer legal period of limitation remains unaffected.

V. Product Liability, Indemnity, Protection of Liability Insurance

1. In case the Contractor is responsible for a product damage he is – irrespective of the regulations in this paragraph – obliged to indemnify the Principal upon first demand of all damage claims of third parties as far as the reason has been laid in his area of domain and organisation and he is liable *vis-à-vis* third parties himself.
2. Within this frame work the Contractor is also obliged to reimburse any disbursements of the Principal according to Sec. 683, 670 BGB, which result out or in connection with a product recall by the Principal as far as the claim results not in accordance with Sec. 830, 840 BGB in connection with Sec. 426, 254 BGB. The Principal will inform the Contractor on content and extent of the call back – as far as possible and reasonable – and give him the possibility for statements. Other legal claims remain unaffected.
3. The Contractor is generally liable also for slight negligence *vis-à-vis* the Principal. A general exclusion of liability is not valid. This also applies in case of liability for a managing body, employees or assistants.
4. The Contractor is obliged to maintain a product liability insurance with a amount of coverage of at least EUR 10,000,000.00 per each damage to property or persons – globally. The Contractor is obliged to prove on demand of the Principal the entering into such insurance and the payment of the due premiums. In case the Contractor is only internally liable to the Principal because of product liability, the Contractor is obliged to assign on first demand to the Principal such claims *vis-à-vis* the insurance company in the amount of the damage caused with the Contractor. Payments to the Contractor resulting out of this assigned insurance claims will be set off to the claims of the Principal *vis-à-vis* the Contractor. Further damage claims of the Principal remain unaffected.

5. Materials and machines to be delivered and assembled must adhere to the legal provisions for accident prevention. The Contractor is obliged to adhere to all applicable public and technical provisions (DIN-regulations, VDE-, VDMA-, accident prevent provision, Tüv-provisions etc.) as well as all other accident prevent and labour protections provisions.

VI. Secrecy, Trademark Rights

1. The Contractor warrants to the Principal that no proprietary rights or rights of third parties are injured in relation to the performance their intended use by the Principal or the further processing or resale of the delivered goods.
2. In case the Principal is being held responsible because of third party rights according to para. 1, the Contractor is obliged to hold the Principal harmless from all such claims or measures of third parties upon first written demand. The Principal is not entitled to enter into any agreements with third parties, in particular a settlement, without consent of the Contractor.
3. The indemnification obligation of the Contractor relates to all necessary imbursements which are incurred with the Principal out or in relation of the being held responsible by third parties.
4. The Contractor is obliged to treat the order of the Principal as well as all related business and technical details strictly confidential. Information by the Principal and drawings made by the Principal or the Contractor because of such information may only be used with written consent of the Principal for purposes outside of the purposes of the contractual relation.
5. The Principal reserves his property and copy rights to all pictures, drawings, calculations and other documents. They may not be made available to third parties without explicit written consent of the Principal. They are exclusively to be used for the construction because of the order of the Principal. After completion they are to be returned to the Principal without being requested. They are to be treated confidential *vis-à-vis* third parties. The secrecy obligation terminates if the knowledge included in the information has become publicly known.
6. Acceptance or acknowledgement of drawings, plans and samples of the Contractor do not affect the sole responsibility of the Contractor for the properness of the performance.

VII. Reservation of Title, Prohibition of Assignment

1. A delivery under reservation of title of the Contractor is objected.
2. In case the Principal provides parts with the Contractor, such parts remain property of the Principal. Processing or alteration by the Contractor is made for the account of the Principal. If such goods for which property was retained by the Principal is processed with other goods not owned by the Principal, the Principal acquires co-ownership of the new goods in relation to the value of his goods to the value of the other processed goods at the time of the processing. The same applies in case of mixture. If the mixture leads to a result were the goods of the Contractor are to be deemed as main goods, it is herewith agreed that the Contractor transfers pro rata co-ownership to the Principal. The Contractor maintains the sole or co-ownership of the Principal on behalf of the Principal.
3. Claims of the Principal against the Contractor may only be assigned with consent of the Principal to third parties.

VIII. Force Majeure

Labour insurrections (strikes and lock-outs), blockages as well as restrictions of business and other cases of force majeure, which may lead to a cut back of consumption, are deemed to be force majeure and exempt the Principal for the duration of the disturbance from his obligation of acceptance.

IX. Applicable Law, Jurisdiction

1. These terms and all legal relations between the Principal and the Contractor are exclusively subject to the decisive law of the Federal Republic of Germany. The uniform purchase right based on international conventions for the sale of goods, in particular the Uniform Law on the Formation of Contracts for the International Sale of Goods and on the completion of these contracts of sale (Hague Conventions Relating to the Sale of Goods), as well as the UN Sales Convention, and the Vienna Convention on Contracts for the International Sale of Goods do not apply.
2. The place of performance – even internationally – is the domicile of the Principal.
3. The competent courts at the domicile of the Principal shall have jurisdiction for all disputes, even on an international scale. However, the Principal is entitled to sue the Contractor at his general venue.

The Principal points out that data are stored for the purpose of automatic processing.

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