

GENERAL TERMS AND CONDITIONS

Introduction

All deliveries and performances of BEIL occur exclusively to following business conditions. Herewith we formally disagree to differing conditions of the customer. Such conditions are only binding for BEIL, if BEIL accept them in written form.

Through order placing and acceptance of delivered goods the customer confirms his accordance to our conditions.

1. Scope of delivery or performance

1.1. The scope of delivery or performance shall be determined by the written confirmation of order by the supplier or providing party (hereinafter the supplier).

1.2. Protective equipment shall be supplied to the extent that this is required by law or has been expressly agreed.

1.3. The supplier reserves the unrestricted title and copyright exploitation rights to estimates of costs, drawings and other materials; they may only be made accessible to third parties with the prior consent of the supplier. If the contract is not awarded to the bidder, drawings and other materials associated with quotations shall be returned immediately on demand. Sentences 1 and 2 shall apply mutatis mutandis to materials of the ordering party; however, these may be made accessible to such third parties to whom the supplier has properly transferred deliveries or services.

1.4. Oral agreements shall only be valid if confirmed in writing.

2. Prices

2.1. The prices are net prices and do not contain value added tax. This shall be charged in addition at the rate prescribed by law at the time of delivery, and shall in any event be paid at the latest by the 10th of the month following delivery.

2.2. The prices are ex works, excluding packaging. They are exclusive of any state and official charges which may redetermined or charged in future – including with retrospective effect – for the individual shipments of goods.

2.3. The prices are calculated on the cost bases of the date of the quotation. In the event of changes to material prices, wages, freight or other cost factors, we reserve the right to adjust prices unless the delivery is effected within four months following conclusion of the contract.

3. Terms of payment

3.1. Payments shall be made in cash without any deduction, costs paid to the supplier's bank account on the agreed dates.

3.2. Set-off retentions shall only be permitted for undisputed or claims determined with final legal effect.

3.3. If a payment deadline is exceeded, we reserve the right to charge the interest in height of the interest of bank credit.

3.4. If the ordering party fails to comply with his payment obligations or the obligations resulting from the reservation of title, if a significant deterioration occurs to his economic situation or if he discontinues payments, the entire outstanding debt shall become due.

4. Reservation of title

4.1. The subject matter supplied shall remain the supplier's property until all claims deriving from the supplier contract or in connection with the subject matter of delivery have been settled. This shall also apply if the claims are included in a current account.

4.2. Any processing and working of the subject matter of delivery subject to reservation of title or its inclusion with other goods by the orderer or third parties shall be for the supplier. The supplier shall have joint title to the resulting goods according to the value of the subject matter supplied. The ordering party shall in advance assign his claims from the resale of the subject matter of delivery to the supplier up to the amount of the later's claims as security for such claims. The ordering party shall be empowered to collect his claims. Collection by the supplier is reserved.

4.3. The ordering party shall be obliged to surrender the subject matter of delivery if he fails to comply with his payment obligations. He subject matter of delivery. If such subject matter has been used, the supplier shall be entitled, without any proof of damage, to charge a value reduction or user fee of 25% for the first six months of use and for every further six months a charge of 5% to the debit of the ordering party, unless the actual condition of the subject matter of delivery justifies a greater value reduction.

4.4. In the event of levy of execution or other impairments to the owner's interest, the ordering party shall notify the supplier immediately.

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5. Deadline for deliveries or services

5.1. With regard to the deadline for deliveries or services, the mutual written confirmations shall be decisive. Compliance with the deadline shall require the timely receipt of all material to be supplied by the ordering party, the necessary authorisations, releases, timely clarification and authorisation of the plans, compliance with the agreed terms of payment and other obligations. If these conditions are not met in time, the deadline shall be prolonged accordingly.

5.2. In the case of delivery without erection or assembly, the deadline shall be deemed to have been complied with if the shipment ready for operation is made ready for dispatch or collected within the agreed period for delivery or performance. If the delivery is delayed for reasons for which the ordering party is responsible, the deadline shall be deemed to have been complied with if readiness for dispatch is notified within the agreed period. In the case of delivery with erection or assembly, the deadline shall be deemed to have been complied with if such is carried out within the agreed period.

5.3. The agreed delivery time may be exceeded adequately in the event of hindrances which arise due to force majeure. To this belong also actions in the scope of collectiv action, especially strike and lockout. This is also valid if unexpected hindrances and circumstances occur at subcontractors. The observance of the delivery date requires the settlement of all contractual obligations. BEIL is also not responsible for such circumstances, if they occur during an existing delay. Is the delivery delayed on demand of the customer, BEIL is after an adequate period authorized to dispose with the goods otherwise, to deliver with accordingly extended term and to charge the existing costs for storage.

5.4. If Beil culpably exceeds the last possible delivery date, the customer, if he has set a reasonable grace period in writing and announced a refusal of Beil's performance, shall be entitled to confirm withdrawal from the delivery contract within a further 4 calendar weeks calculated from the last day of the grace period said. If he fails to exercise this right or fails to exercise it in writing within his period, or if Beil is ready to deliver before receipt of the customer's declaration of withdrawal, the customer shall lose the entitlement to withdraw from the contract (=estoppel). If the customer withdraws from the contract in good time and in the proper form, Beil shall refund the loss to the customer to the amount of 1% of the price agreed for the contractual subject matter, upon submission of evidence and to the exclusion of all other claims on the part of the customer; this restriction shall not apply in the event of deliberate action or gross negligence with respect to the delivery default on the part of Beil or the persons employed by it in the execution of the contract.

6. Transfer of risk

Risk – even in the case of FOB deliveries – shall transfer to the ordering party at the latest upon dispatch of the supplied parts from the works. If dispatch is delayed as a result of actions by the ordering party, the risk shall transfer to the ordering party upon notification of readiness to dispatch.

7. Erection and assembly

Unless otherwise agreed in writing, any kind of erection and assembly shall be subject to the supplier's service conditions at the time.

8. Acceptance

8.1. Goods delivered shall be accepted by the ordering party, even if they include insignificant reasons for complaint.

8.2. Part deliveries shall be admissible.

9. Warranty for defects in the supply and performance

The supplier shall be liable for defects, including the absence of promised characteristics, as follows:

9.1. At the discretion of the supplier, the supplier shall remedy, redeliver or reperform free of charge all such parts or services that within 6 months – irrespective of period of operation – starting from the day of the transfer of risk become unusable or whose usability is significantly impaired as a result of a factor occurring before the transfer of risk, in particular as a result of faulty design, poor material or defective workmanship. The supplier shall notify the discovery of such defects immediately in writing.

9.2. The ordering party shall comply with its contractual obligations, in particular the agreed terms of payment. If a complaint about a defect is asserted, the ordering party's payment may be retained to an extent in reasonable relationship to the defect occurring, and if there can be no doubt about the justification of the asserted complaint concerning defect.

9.3. For purposes of the elimination of the defect, the ordering party shall allow the supplier the time and opportunity required ex aequo et bono. A refusal to do so shall release the supplier from liability for the defect.

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9.4. If the supplier fails to remedy a defect within a reasonable grace period allowed, the ordering party can demand the cancellation of the contract (repudiation) or a reduction of the payment (diminution).

9.5. The ordering party's right to assert claims based on defects shall in any event expire 6 months after the time of the timely objection. If no agreement is reached within this period, the supplier and the ordering party can agree an extension of this expiry deadline.

9.6. Liability for defects shall not apply to natural wear and tear, nor to damage resulting after the transfer of risk as a result of faulty or negligent treatment, excessive use, unsuitable operating material, faulty operation and maintenance, unsuitable ground and such chemical, electro-chemical or electrical influences not presupposed according to the contract.

9.7. Liability shall be excluded for the consequences of any improper changes and maintenance work carried out by the ordering party or third parties.

9.8. The warranty period for subsequent remedies, replacement deliveries or replacement services shall amount to 1 years in each case. For electrically operated components, the warranty period is 6 months. It shall run at least until expiry of the original warranty period for the subject matter of the delivery. The period for liability for defects shall be prolonged by the duration of the interruption to operations that results from the need to make corrections, replacement deliveries or replacement services, with respect to those parts that cannot be used as intended because of the interruption.

9.9. The provisions concerning warranty periods in sections 9.1, 9.5 and 9.8 shall not apply if the law necessarily imposes longer periods.

9.10. The ordering party shall have no further claims against the supplier and the persons employed in performing the obligation, in particular a claim for refund of damage not caused to the subject matter of delivery itself. This shall not apply to the extent that liability is necessarily imposed in cases of deliberate action, gross negligence or the absence of promised characteristics.

9.11. Sections 9.1 to 9.10 shall apply mutatis mutandis for such claims on the part of the ordering party for correction, replacement delivery or damages incurred as a result of proposals or advice provided within the framework of the contract or through the infringement of secondary contractual obligations.

9.12. In the case of the supply of third-party products, only such conditions shall apply with respect to liability for defects that the supplier has accepted from its sup-suppliers and which are notified to the ordering party with the delivery.

9.13. Warranty for second-hand machinery shall only be assumed to the extent agreed in writing.

10. Impossibility, adjustment of contract

If the supply or performance required of the supplier or the ordering party should be impossible, the general principles of law shall apply subject to the following conditions:

10.1. If the impossibility is due to the fault of the supplier, the ordering party shall be entitled to claim damages. However, the ordering party's claim for damages shall be restricted to 10% of the value of the part of the delivery or performance that cannot be started up as intended as result of the impossibility. The ordering party's claim for damages going beyond the said limit of 10% shall be excluded. This shall not apply to the extent that liability is necessarily imposed in cases of deliberate action or gross negligence. This shall not affect the ordering party's right to withdraw from the contract.

10.2. If unforeseen events within the meaning of section, 5.3 significantly change the economic significance or the contents of the delivery or performance, or have a significant effect on the business operations of the supplier, the contract shall be adjusted accordingly to the extent permitted by good faith. If this is commercially unacceptable, the supplier shall be entitled to withdraw from the contract. If it wishes to make use of this right of withdrawal, it shall notify such immediately to the ordering party upon acquiring knowledge of the extent of the event, and this even if a prolongation of the delivery time has first been agreed with the ordering party.

11. Other claims for damages

No claims for damages on the part of the ordering party shall be entertained on the basis of positive breaches of obligation, the infringement of obligations in the negotiation of the contract and torts. This shall not apply where liability is necessarily imposed in cases of deliberate actions or gross negligence by the supplier, his legal representative or the persons used in performing the obligation. This limit on liability shall apply mutatis mutandis to the ordering party.

12. Legal venue

The legal venue for disputes arising directly or indirectly from the contractual relationship shall be 93309 Kelheim. German law shall apply.

The supplier may, however, also file litigation at the place of business of the ordering party.