

General Terms and Conditions of Sale for Companies within the Beck Group

Beck GmbH & Co. Elektronik Bauelemente KG – Beck Kabel- und Gehäusetechnik GmbH – SPV Electronic Vertriebsgesellschaft mbH – Beck Elektronik Display GmbH

I. General conditions

(1) Substantive and individual area of applicability

The following terms and conditions apply to all our delivery and service contracts (including ancillary services such as quotations, planning consultation and advice) with commercial customers within the meaning of § 14 BGB (German Civil Code), legal persons in the public law sphere and special assets regulated by public law. They do not apply to consumer contracts within the meaning of § 13 BGB.

(2) Exclusion of other terms and conditions

These conditions constitute the entire understanding between the purchaser and the seller and all differing terms and conditions advanced by the purchaser are excluded from this agreement. We are not bound by any such differing conditions even in the absence of our specifically rejecting them again when we receive them. Conclusion of the contract or receipt of the sales confirmation, or at the very latest acceptance of our delivery, is deemed exclusive evidence of the purchaser's acceptance of our conditions.

(3) Effectiveness of clauses

Should individual clauses be or become void this does not prevent the effectiveness of any other clauses contained in these standard conditions of sale. In the event that a clause is held to be void, the parties are deemed to agree a clause which most closely represents the economic intentions of the parties.

(4) Amendments

In order to be effective all variances from the following conditions as well as any amendments of or additions to orders must be agreed and confirmed by us in writing. The same applies for amendments of this clause itself.

II. Contract for sale

(1) Written confirmation

Our offers are not binding until a contract (order) which is placed in response to an offer is confirmed by us in writing. All contracts (orders) must be confirmed by us in writing in order for their acceptance to be legally effective. For supplies made without written confirmation our invoice is considered to amount to a sales confirmation.

(2) Contractual goods

The seller reserves the right from time to time to make acceptable technical or creative changes to the ordered goods so long as this does not materially impair the technical function, fitness for usual use or value of the goods. The purchaser has a right to terminate the contract should any such change make acceptance of delivery by the purchaser unreasonable in the individual case. All other rights are excluded. A contract comes into being in relation to those goods stated in our sales confirmation unless the purchaser objects to the contract in writing without delay and in any event no later than 5 working days after receiving our sales confirmation.

(3) Technical specifications

All technical specifications provided in our catalogues, offers, drawings and illustrations are approximate unless explicitly specified in writing to be binding within their stated range of tolerance. Further, only the relevant technical acceptance test procedures and safety requirements of the country of manufacture are applicable to our supplies.

III. Duty to deliver

(1) Force majeure

Our duty to deliver is conditional on our suppliers duly delivering the necessary goods and materials to us on time. We reserve the right to terminate the contract and exclude all liability for damages in the event of any continuing delay or default caused by conditions beyond our control, in particular acts of God, strikes, lockouts, import or export bans, transport delays, government action or the like. Any more than insubstantial change in one of our suppliers' capacity to deliver, pricing or quality of goods or in the services of any other third party, on which we rely significantly in order to duly perform the contract as awarded to us, also entitles us to terminate the contract and exclude all liability for damages.

(2) Part delivery or delivery of more or less than ordered

Part deliveries are allowable and qualify as a separate delivery in relation to payment and any reclamation. We reserve the right to deliver goods with discrepancies of up to 10% of the quantity ordered provided it is not unreasonable to expect the purchaser to accept this.

(3) Significant decline in the purchaser's assets and/or solvency

In the event of a significant decline in the assets and/or solvency of the purchaser after signing the contract, or if any such circumstances which existed before the contract subsequently become known, we reserve the right to either terminate the contract or demand immediate payment of all sums outstanding notwithstanding that the invoice amount has been deferred in part or in total beforehand or paid by bill of exchange. Circumstances deemed to fall within this clause include in particular a less favourable credit rating from a credit agency, dishonoured cheques or bills, attachment orders, suspension of payment, commencement of insolvency proceedings or means-related rejection of an insolvency petition. If we chose not to terminate the contract despite the purchaser's financial decline we shall deliver against immediate payment only or for larger orders by sale against cash in advance.

IV. Terms of delivery

(1) General provision relating to delivery dates

Unless otherwise agreed all indications as to delivery dates and deadlines are approximate only and are not binding. The agreed delivery date is deemed to be extended for a reasonable period if it cannot be adhered to due to circumstances beyond our control. Generally an extension of one month shall be considered acceptable provided that in the individual case and having regard to the interests of both parties no other term has been fixed by us in writing.

(2) Binding delivery dates

Fixed dates or terms of delivery for which time is of the essence must be specifically agreed and confirmed in writing. A term of delivery shall commence on the date of our written confirmation but not before the individual details of the contract and all other requirements of the purchaser relating to proper performance of the contract have been agreed. The same applies for delivery dates.

(3) Duty to cooperate

The purchaser shall provide all data, documentation and other relevant information at the time the order is placed or promptly following the act of placing an order. The purchaser has no right to demand adherence to delivery dates and terms if such documents and data are not received on time. In this case the purchaser cannot recover damages for delay. The delivery date or term is deemed to be extended for a reasonable period.

V. Passing of risk

(1) Passing of risk on despatch

Risk in the goods for their destruction or impairment shall pass to the purchaser as soon as the delivery leaves the seller's factory. The same applies to contracts in which carriage is paid for by the seller or arranged using the seller's means of carriage. Carriage is always at the risk of the purchaser notwithstanding delivery being carriage paid.

(2) Passing of risk on notification of readiness for despatch

In the event that despatch of a delivery is delayed at the purchaser's request or for reasons beyond our control, risk passes to the purchaser on notification of the readiness for despatch of the goods.

VI. Price

(1) General clause on pricing

Our prices are quoted ex works exclusive of packaging and statutory value-added tax. Any agreement as to fixed prices must be expressly confirmed in writing. Unless otherwise agreed our prices are in Euros notwithstanding delivery outside the European Monetary Union.

(2) Price adjustments and increases

Our quoted prices are subject to alteration. We reserve the right to alter or increase our prices if one of our suppliers increases its prices, there is a more than negligible rise in costs due to changes in the exchange rate, customs duties or similar financial burdens, or more than one month has elapsed between the date of ordering (items to be delivered on demand) and delivery, provided that a new price list has become applicable at this time. There will be no alteration or increase in price if this would be unreasonable for the purchaser.

(3) Packaging and packing material

The cost of packaging and packing material is the purchaser's responsibility. We are happy to take back packaging and packing material at the purchaser's expense. A return of any kind of packaging used for deliveries outside Germany is excluded.

VII. Conditions of payment

(1) Payment date

Unless otherwise agreed payment for invoiced sums is due net within 30 days from the invoice date.

(2) Interest for late payment

If the purchaser fails to make any payment on the due date then without prejudice to any of the seller's other remedies the purchaser shall pay interest on the outstanding amount at 8% above the European Central Bank base rate.

(3) Payment by bill of exchange or cheque

Payment by bill of exchange or cheque shall only be acceptable if specifically agreed in the individual case, however we reserve the right not to accept such payment. Bill discounts and other expenses are the purchaser's responsibility.

(4) Other interferences in contractual performance by the purchaser

Delivery is made on condition of the purchaser's creditworthiness and solvency. In the event of late payment, non-payment of a cheque or bill of exchange, suspension of payment, commencement of debt regulation proceedings, non-compliance with conditions of payment, a less favourable credit rating from a credit agency or the existence of any other circumstances which are capable of impairing the purchaser's creditworthiness, we reserve the right to amend the contractual terms and conditions as appropriate and to terminate the contract if performance is finally refused.

(5) Right to set off or withhold payment

The purchaser is only entitled to set off or withhold payment against the sums due to us on the grounds of the purchaser's own reciprocal demands for payment provided these demands are legally ascertained or established in writing.

VIII. Retention of title

(1) Retention of title as agreed

Ownership of all goods delivered (goods which are subject to retention of title) remains with the seller until all conditions arising out of the seller's contractual relationship with the purchaser have been fulfilled. Bills of exchange and cheques are not deemed valid payment until the relevant sum has actually been credited to the seller's account.

(2) Extended retention of title clause

In the event that our goods become mixed with or attached to other goods by the purchaser so as to form a new and integrated product we reserve a right to joint ownership in the new product in proportion of the value of the goods whose title has been retained to the value of the other manufactured or attached goods at the time of manufacture and/or attachment. The retention of title attaches to the new goods obtained under the resulting joint ownership for the purpose of these conditions.

(3) Resale and advance assignment

The purchaser may only dispose of the goods whose title has been retained by us in the normal course of business provided the purchaser is not in default of any of our contractual demands. The purchaser agrees to assign to us all claims arising from resale of the goods which are subject to retention of title, as security for our demands resulting from the contractual relationship. We accept this assignment here and now. In the event that goods which are subject to a retention of title are disposed of by the purchaser together with other goods or joint ownership rights which are not the seller's, we accept that the assignment of any claim resulting from the resale only relates to the amount due to us for the goods with retained title. The value of the goods which are subject to retention of title is assessed according to our invoice value. The purchaser has the right to collect the resale debts which have been assigned to us subject to withdrawal of this right by us.

- (4) **Threat to the right of ownership**
As long as the retention of title is in force the purchaser is prohibited from charging the goods or transferring them by way of security. In the event of a charge, seizure or other order or third party intervention, particularly in relation to compulsory judicial execution, the purchaser shall immediately notify the seller in writing.
- (5) **Duty to return the goods**
If the purchaser defaults in part or in total on our contractual demands we reserve the right to claim immediate return of the goods which are subject to retention of title and to dispose of these goods by other means, as well as to hold back outstanding deliveries notwithstanding that we have not terminated the contract of sale. This is not conditional on any further request for payment or stipulation of a deadline. The exercise of rights related to our retention of title does not amount to termination of the contract.
- (6) **Release of assets held as security**
If the value of the assets held by virtue of the above provisions exceeds the outstanding invoice value by more than 20% then at the purchaser's request we are obliged to release the exceeding assets at our option subject to the proviso that, with the exception of supplies made as a result of a real current account relationship, only fully paid supplies or goods of replacement value have to be released.

IX. Product defects

- (1) **Product specification**
Specification details for the goods to be supplied by us are provided conclusively in our written offer documentation and/or the catalogues used by us. Unless otherwise agreed in writing the contract is only agreed in relation to use of the product as specified in our offer documentation and/or catalogue.
- (2) **Purchaser's duty of inspection and notification**
On receipt of our goods the purchaser shall inspect them without delay and notify us in writing of any identifiable defects within 2 weeks from the date of delivery. Any defects which despite diligent inspection are not discoverable within this period are to be notified to us in writing without delay and in any case no later than 2 weeks from the date on which they were discovered. Failure by the purchaser to notify us in time of a defect is deemed to constitute acceptance of our delivery as being free from defects and being made in accordance with the contract.
- (3) **Slight defects**
There is no right to claim for defects if they constitute only a slight deviation from the agreed specification, only slightly impair the usability of the product, are due to fair wear and tear, or arise after risk has passed as a result of wrongful or negligent use, over-use, unsuitable production facilities, deficient construction, unsuitable assembly areas, chemical, electrochemical, electronic or electric influences or any other particular extraneous influences which are not foreseeable under the contract, including non-reproducible software defects. Further there is no right to claim for defects or consequential loss arising out of improper alterations or repairs carried out by the purchaser or a third party.
The purchaser has no right to reject the goods supplied on the grounds of a slight defect only.
- (4) **Liability for defects**
Our products or services shall be repaired or supplied anew at no extra expense if a defect arises within the limitation period, provided the cause of loss arose prior to the passing of risk. The burden lies with the purchaser to provide evidential proof of this. We are to be granted a reasonable period within which to rectify the fault. If our attempts to rectify the fault are unsuccessful on more than 3 occasions, the purchaser has a right to terminate the contract or reduce payment. This does not prejudice any claims for compensation.
- (5) **Limitation of warranty**
The right to claim for defects is limited to a period of 12 months. This does not apply inasmuch as the statutory provisions in § 438 para. 1 no. 2 (Buildings and objects for buildings), § 479 para. 1 (Right to recourse) and § 634a para. 1 no. 2 (Building defects) impose longer limitation periods, nor to cases of death, personal injury or injury to health, intentional or grossly negligent breach of duty by the seller or fraudulent concealment of a defect. The statutory provisions relating to suspension, estoppel and recommencement of the limitation period are not affected.
- (6) **Reimbursement of expenses**
The purchaser has no right to claim reimbursement of expenses incurred in the process of renewed supply, in particular in relation to transport, flow path and labour costs and the cost of materials, if the increase in expenses is due to the goods to be supplied retrospectively having been delivered to a place other than purchaser's established place of business, unless such a delivery of goods is in accordance with their contractual purpose.
- (7) **Restriction of the right of recourse**
The purchaser's right of recourse against the seller under § 478 BGB (Recourse by the entrepreneur) applies only insofar as the purchaser has not come to any agreements with his sub-purchaser which go beyond the statutory rights to claim for defects, and/or no equivalent settlement within the meaning of § 478 para. 4 BGB has otherwise been agreed between us and the purchaser.
- (8) **Return of defective goods**
If the purchaser wishes to claim under a warranty he/she is obliged either to return the defective goods to us at our option, carriage paid by the purchaser, or to store the goods at the purchaser's established place of business ready for inspection and examination for defects.
- (9) **Compensation**
Clause XI (Other claims for compensation) of this contract of sale is applicable to claims for compensation. Liability is excluded for further claims for defects or claims other than those regulated by this clause IX made by the purchaser against us and those assisting our contractual performance.

X. Warranty for defects, industrial property rights, copyright

- (1) **Industrial property rights of third parties**
Unless otherwise agreed our duty to supply goods which are not encumbered by third party industrial property rights and copyrights (referred to hereafter as industrial property rights) is limited to within Germany. In the event of a third party asserting a valid claim against the purchaser due to a breach of industrial property rights resulting from use of goods contractually supplied by us, we are

liable to the purchaser as follows within the limitation period specified in clause IX(5):

- a) At our option and our expense we shall obtain a legal right of use for the supplies in question, alter these so that the industrial property right is no longer breached, or exchange the goods. Should this not be possible on reasonable terms then the purchaser has a statutory right to terminate the contract or reduce the price.
- b) The obligation for us to provide compensation as the case may be is contained in clause XI of this contract of sale.
- c) Our aforementioned duties only subsist provided the purchaser notifies us without delay of the third party claim and refuses to admit a breach, at the same time as we continue to have all rights of arranging a defence and negotiating a settlement.

(2) **Purchaser's own liability**

The purchaser has no right to assert a claim against the seller if liability for breach of the industrial property right lies with purchaser.

(3) **Other exclusions of liability**

In addition claims by the purchaser are excluded inasmuch as the breach of an industrial property right is the result of specific demands of the purchaser's, unforeseeable use of the product, alteration of the product supplied or use by the purchaser in conjunction with other products not supplied by us.

(4) **Warranty for other defects**

All other defects at law are regulated by clause IX of this contract of sale.

(5) **Exclusion of continuing liability**

We exclude liability for continuing claims and claims other than those stated in this clause X. and clause IX by the purchaser against us and those assisting our contractual performance.

XI. Other claims for compensation

(1) **Barring of other claims**

Liability for other claims by the purchaser for damages or compensation for expenditure on whatever legal basis and in particular for breaches of duty resulting from the contractual relationship and from unauthorised action is excluded.

(2) **Compulsory liability**

This does not apply where liability is compulsory, such as under the Product Liability Act, nor in the case of intentional breach, gross negligence, death, personal injury or injury to health, breach of major contractual duties or the grant of a warranty. Claims for damages or compensation for expenditure for breach of major contractual duties are limited to foreseeable damage typical of this kind of contract, unless the breach was intentional or grossly negligent or liability is imposed as a result of death or personal injury or injury to health. The aforementioned provisions do not result in any alteration of the burden of proof to the detriment of the purchaser.

(3) **Limitation period**

Inasmuch as the purchaser is entitled to claim compensation under this clause XI all claims become time-barred on expiry of the limitation period for claims for defects contained in clause IX.(5). The statutory limitation provisions apply to claims for damages brought under the Product Liability Act.

XII. Contractual warranty

(1) **Warranty in relation to specification and durability**

Any agreement as to a warranty relating to the specification or durability of our goods is only valid if provided for in writing by means of a separate certificate.

(2) **Product description in printed matter and advertisements**

Our catalogues, offer documents and other printed material as well as all information contained in data carriers constitute a product description only and do not represent an offer to issue a warranty. The same applies to the subject matter of our advertisements.

XIII. Additional conditions

(1) **Termination by the purchaser**

The purchaser's statutory right to terminate the contract in the event of a defect in the delivery is not contingent on any fault. In all other instances the purchaser may only terminate the contract if we are liable for breach of duty.

(2) **Data protection**

We would advise the purchaser that we reserve the right to use and pass on personal data for business purposes using electronic data processing procedures in accordance with the provisions of the Data Protection Act.

(3) **Small orders**

We reserve the right to charge a processing fee of €15.00 for small orders under €50.00.

XIV. Place of execution and jurisdiction/applicable law

(1) **Place of execution**

The place of execution for the mutual duties arising from the contract is Nuremberg (Nürnberg) or, for any of our deliveries ex works, Emskirchen respectively.

(2) **Jurisdiction**

All disputes arising out of this contract directly or indirectly shall be subject to the exclusive jurisdiction of the Nuremberg (Nürnberg) courts. We are nevertheless entitled to issue proceedings at the purchaser's place of business.

(3) **Applicable law**

All legal relationships between us and the purchaser are subject solely to the law of the Federal Republic of Germany with the exception of the UN Convention on Contracts for the International Sale of Goods (CISG).