

Purchase and delivery conditions for Baumit GmbH

Only the following purchase and delivery conditions shall be valid for orders (commissions) of the delivery of goods or services placed by Baumit GmbH, FN 94709 d, 2754 Waldegg-Wopfing, Wopfing 156, referred to hereinafter as the Client. These conditions can be viewed in their currently valid version at any time at www.baumit.at. Upon acceptance and execution of the Client's orders (commissions), the Contractor shall recognise the client's purchase and delivery conditions. Deviating agreements shall only be valid if they are expressly recognised by the Client in writing.

1. Orders

Contracts shall always be concluded with the content of the orders placed in writing, irrespective of any offers made. The requirement that orders be placed in writing shall also be fulfilled where they are placed by email.

2. Order confirmation

Verbal orders or orders placed by telephone as well as additions, amendments or deviations of any kind shall only become binding for the Client once they have been confirmed by the Client in writing. The order date is the date on which the client places the order. The Contractor's order confirmation must contain the Client's order number.

3. Delivery period

The delivery or performance period begins on the day the order is placed. If no time limit has been agreed, delivery or performance is to be carried out immediately. In the event of imminent delay in delivery or performance, the Client is to be informed in writing and the reasons for and probable duration of the delay stated.

4. Delivery, dispatch, receipt and insurance

Delivery (performance) and dispatch shall always be carried out according to the stated delivery conditions. If none have been specified, then delivery and dispatch shall always be carried out as Delivery Duty Paid in accordance with INCOTERMS in the currently valid version at the place of performance determined by the Client. Cash-on-delivery shipments will not be accepted unless expressly agreed with the Client. Consignments shall be accompanied by a freight document, a packing slip and a separate delivery note for each order number. Where any of the accompanying delivery documents required are absent, unloading will not be possible and the Contractor shall be in default of delivery in such cases. The delivered goods are to be handed over to the Client's authorised employees at the delivery address. The acceptance of the goods will take place quantitatively upon their arrival at the delivery address and will only take place qualitatively once they are processed or used. The Contractor must have deliveries properly insured against any kind of damage at his own expense. Products subject to special product regulations such as the Austrian Chemical Ordinance BGBl 1989/208 in its currently valid version must be classified, packaged and labelled in accordance with the regulations. The Client's operating personnel must be trained free of charge where technical equipment is being delivered. Where equipment that needs to be installed by third parties is being delivered, the necessary assembly plans (including all connections, any socket training etc.) and maintenance instructions etc. must be appended to the order confirmation and must be handed over on delivery of the goods at the latest.

In the case of deliveries from abroad, labels must be affixed in the national language; operating instructions must be issued in German and the national language.

The Contractor shall inform the customer in writing immediately about existing or imminent delays in delivery or problems related to product quality.

5. Packaging, problem substances

The risk for the consequences of defective packaging and costs of packaging are always included in the price of the goods. If, in exceptional cases, the Client also assumes the cost of packaging, the Client shall be charged the cost price and this shall be shown in the invoice separately; the contractor shall bear the risk for the consequences of defective packaging in this case as well. In addition, the Client is entitled to set aside the packaging material and to demand credit for it provided it is not pre-licensed in accordance with the Austrian Packaging Ordinance ("VVO"); if not pre-licensed in accordance with the VVO, the packaging weight per packaging material must be stated. The Client does not recognise any deposits. The Contractor must always dispose of packaging materials and transport expedients etc. as well as all delivery items classifiable as "special waste" or the remains of such delivery items after their intended use at his own risk and expense or return them for disposal. If the Contractor does not comply with this obligation, the Client shall be entitled to dispose of them through the use of third parties at the risk and expense of the Contractor.

6. Delay, withdrawal and contractual penalty

In the event of delay in delivery (performance) or in the event of delivery (performance) in a manner contrary to the contract, the Client shall be entitled – without prejudice to any further claims – to withdraw from the contract, either immediately or after the granting of a reasonable period of grace, or to insist on the fulfilment of the contract. The Client may obtain the quantity of the product ordered from third parties at the expense of the Contractor. The Contractor is obliged to reimburse the Client for any additional and consequential costs incurred by the Client or third parties resulting from such a cover purchase by the Client.

The same rights shall be granted to the Client where the Contractor's assets have been subject to bankruptcy or compensatory proceedings or the application for bankruptcy has been rejected in the absence of any assets to cover the costs. The Contractor must inform

the Client of the opening of any bankruptcy or compensatory proceedings immediately.

In the event of delay, the Client shall also be entitled to demand a contractual penalty of 10% of the total order value instead of the fulfilment of the contract or, where the performance is delayed, a contractual penalty of 1% of the total order value for each week commenced. Irrespective of the amount of the order value, the Client reserves the right to claim such a contractual penalty or damages beyond this even where the Client accepts the delayed delivery or performance. These rights shall also be granted to the Client where the Contractor is not at fault.

However, if the delay is due to force majeure, the Contractor shall be released from his obligation to provide the contractual penalty and compensation for the duration of the delay where he immediately reports these circumstances.

7.1. Force majeure

Neither the Contractor nor the Client shall be held responsible and liable where he is unable to fulfil his obligations under this Agreement due to circumstances beyond their control as defined under Item 7.2.

7.2. Definition of "Force Majeure":

Neither the Contractor nor the Client shall be deemed to be in breach of this Agreement if he violates any of the obligations of this Agreement due to acts or events beyond his control, including, but not limited to, any kind of natural event, outbreak of epidemics or pandemics of a communicable or virulent disease/infection and action taken by a government or public authority in response to this, acts of war or terrorism, hostilities (with or without declaration of war), invasion, acts of foreign enemies, quarantine of any kind, natural disasters, floods, fires, embargoes, boycotts, revolts, explosions, gas, fuel or electricity shortages, hacking, piracy, government measures and regulations or changes to the law.

Should an event of Force Majeure occur, the party concerned shall inform the other party as soon as possible or, at the least, without any unnecessary delay. In such cases, the affected

party shall implement all possible mitigation measures to limit the impact of the event of Force Majeure as far as possible and inform the other party of any possible consequences and solutions.

If the affected party's incapacity to perform continues or is reasonably expected to continue for more than three months, the other party may terminate the Agreement with immediate effect by giving written notice.

8. Transfer of risk

Risk is only transferred to the Client where the Contractor has handed over the delivery (service) to the Client's authorised service provider (Item 4, Paragraph 2), the latter has examined the delivery (service) at the place of the delivery address and has accepted it as being correct and the Contractor has fulfilled all ancillary obligations such as the provision of the required test certificates, descriptions, operating instructions and the like without any problems.

9. Warranty

The Contractor warrants that the deliveries and services that he provides possess the requested and typically required characteristics of such deliveries and services, that they correspond to the description, specimens or samples provided by the Contractor and that they can be used in accordance with the nature of the business or arrangement concerned. Public statements made by the Contractor or the manufacturer, particularly in advertising and in the information which accompanies the supply or service, shall be used to assess whether deliveries or services correspond to the above criteria. This shall also apply to public statements made by the party who has imported the goods and services covered by the contract into the European Economic Area or who identifies himself as the manufacturer by affixing his name, trade mark or other identification mark to the supplies and services. Such statements are not binding for the Contractor where he was unaware of them or could not have been aware of them, where they were corrected at the time the contract was concluded or where they could not have influenced the conclusion of the contract. In

addition, deliveries and services must conform with all general and special standards in force in Austria (e.g. CE declaration, declaration of conformity, etc.), for example, for the protection of workers and in the field of safety technology. They must also conform with accepted scientific and technological rules. Section 377 of the Austrian Commercial Code (UGB) shall not be made use of. Notification or assertion of defects within a reasonable time period as of their discovery shall be sufficient for the protection of all the Client's rights arising from defective and/or faulty services. If the Contractor purchases preliminary deliveries from third parties, he shall ensure the quality of such preliminary deliveries either by his own means, especially by making his own quality inspection, or by the contractual integration of the pre-supplier into these conditions. Pre-suppliers shall be deemed to be vicarious agents of the Contractor.

10. Damages

The Contractor shall remedy any defects at his own expense at a place of use designated by the Client or shall provide delivery or perform the service anew free of defects. A defect is defined as being a deviation from the quality standards stipulated in the contract or from the specifications which were ordered.

In any case, the Client shall be entitled to demand the reimbursement of all damages from the Contractor. These include in particular damages arising from defects, the consequential damages of defects and/or financial losses arising from costs incurred for no good reason or other manipulation costs. In the case of slight negligence (but not in the case of gross negligence and intent), the amount of the damages shall be limited by the order value or the amount of the Contractor's liability insurance, whichever amount is the higher of the two. In any case, the Client shall be reimbursed for investigation costs where an investigation has revealed defects. In the event of particular urgency, for example, where the client wishes to avoid delay at his end or where the Contractor fails to remedy defects, the Client reserves the right to cover himself elsewhere at the Contractor's expense or to have defective goods repaired at the Contractor's expense. The costs for such a

repair shall be reimbursed to the Client in full even if these are greater than the costs that would have arisen had the Contractor undertaken the repairs himself.

Obvious defects, damage resulting from transportation, deviating delivery amounts or incorrect deliveries may be reported by the Client within 10 working days or, in the case of hidden defects, within 10 working days of discovery - the Contractor waives his right to object to the delayed notification of defects. Defective goods will not be taken into account when determining the delivery amount or when observing the delivery period and are considered to be a non-delivery. The cost of rectification as well as the reimbursement of additional and consequential costs shall be borne by the Contractor. Defective goods must be collected within 14 working days. Otherwise the Client will charge the Contractor for the cost disposal and any additional expenses.

To compensate for the additional internal expenses incurred by the client in connection with a defective or non-contractual delivery (in particular for testing, quality control, handling, administration, scheduling, production adjustments, or logistics), the client is entitled to charge a flat rate of €250 per rejected shipment.

The assertion of further damages remains unaffected by this, whereby the flat rate will be offset against any proven higher damages. The contractor reserves the right to prove that the actual damage incurred was higher in individual cases. The assertion of further damages remains

unaffected by this, whereby the flat rate will be offset against any proven higher damages.

The contractor reserves the right to prove that in individual cases no or significantly lower expenses were incurred.

11. Product liability

Claims as per the Austrian Product Liability Act ("PHG") in its currently valid version shall be due to the Client undiminished in any case. Where the delivered goods exhibit defects in the sense of the PHG and claims for compensation can be made against the Client, the contractor shall indemnify the Client against all such

claims. On request, the Contractor shall immediately provide the Client with the name of the particular manufacturer, importer or pre-supplier with respect to the products supplied by the Contractor for a period of 11 years after the last delivery was made. Furthermore, the Contractor shall immediately provide the Client with the appropriate evidence required by him to defend himself against the product liability claims of third parties, especially production documents and documents from which production batches and delivery batches and/or production and delivery notes originated. The Contractor undertakes to insure sufficiently against the risk of a claim described above and to provide the Client with suitable proof of this on request.

12. Fire protection, environmental protection, occupational safety

Should the Contractor perform work or carry out supplies within the scope of the contractual relationship at one of the Client's premises, he shall comply with the relevant laws and regulations (e.g. mining law [Bergrecht], the Austrian Construction Site Coordination Act [BauKG], the Highway Code [StVO], employee protection laws, etc.) as well as the "general assembly conditions" and "safety instructions for external companies" issued by the Client, or, where the Contractor has not yet received these from the Client, to request them immediately and to strictly observe them or ensure that his staff strictly adhere to them.

13. Property rights

The agreed price covers the acquisition of legal property rights, in particular patents, to the extent that their acquisition is necessary for the client to freely use and resell the delivery item. If licenses are required, the Contractor must obtain them. Inventions created by the Contractor during the carrying out of the Client's order may be used by the Client free of charge. The Contractor shall indemnify the Client where third-party property rights have been violated in connection with the delivery or service that was ordered.

14. Prices and terms of payment

All prices are fixed and do not include VAT. In accordance with Item 4, prices are valid according to the delivery conditions stated on the order. Invoices that do not comply with these conditions will not set payment deadlines in motion. In the case of partial invoices, the Client shall be entitled to deduct the early payment discount even if the conditions thereof do not apply to other partial invoices from the same order. The Client is entitled to fulfil his payment obligations at his discretion by means of tele-banking, bank or postal savings bank transfer, in cash or bills of exchange. The payment deadline is met where the transfer order or bill of exchange was handed to the postal service within the deadline or was sent to the bank via remote data transmission within the deadline.

15. Accounting

Invoices must be sent to the billing address indicated on the order without exception. Timely payment shall not be guaranteed otherwise.

As with delivery notes, the order number, order items, UID number of the customer and UID number of the Client (as text, without spaces) must be included on invoices. Invoices must be sent via email in PDF format to the email address shown on the order. Only one PDF may be sent per email. The Client is entitled to charge €25 per invoice for the additional expenses incurred by invoices sent to the Client by post.

The date of receipt of the invoice shall be that recorded by the email inbox and not the date on which the invoice was created. Incorrect invoices (i.e. invoices that are not error-free, complete or auditable) are only deemed to have been received upon receipt of the appropriate correction.

Reminders for outstanding payments must be sent within three weeks.

16. Transference of contract, assignment and offsetting

The order may not be passed on to other companies for execution, either in whole or in part, without the written consent of the Client. The Contractor may only assign his claims

against the Client where the Client has consented to this in writing. The Client is entitled to offset claims due to him or his affiliated companies against the Contractor's claims.

17. Business ethics/anti-corruption clause

The Contractor expressly declares and undertakes to comply with the laws of the respective applicable legal system, to refrain from anti-competitive agreements and arrangements, to refrain from corruption and bribery, to refrain from money laundering, to respect the fundamental rights of his employees, to refrain from using child labour and to ensure the health and safety of his employees. In addition, the Contractor declares and undertakes to protect the environment by observing laws, norms and national and international standards.

The Contractor declares and undertakes not to offer benefits of any kind to third parties either directly or indirectly, to accept gifts or payments for himself or others, or to obtain, promise or accept a promise of any other benefits that are or could be considered unlawful practices or bribery.

The Contractor must also transfer the above-mentioned declaration and obligation to his subcontractors and suppliers.

In the event of their being violated, the Client shall be entitled to terminate the contract with immediate effect. Furthermore, the Contractor shall completely indemnify the Client in this regard.

18. Confidentiality and data protection

The Contractor undertakes to keep confidential information about the Client or the object of the order which he has obtained in connection with his order with the Client insofar as it is not generally known or otherwise known to him lawfully, and shall also keep confidential the results or partial results produced by him. The same shall apply to the Client and third parties with regard to personal data which the Contractor becomes aware of in connection with his order with the Client. The Contractor must protect all such information and results,

especially against its being accessed by third parties, and must also arrange for employees concerned with it to keep it confidential. At the same time, the Contractor consents to personal data from this business transaction being transferred to other companies that are affiliated with the Client's group.

19. Place of performance, place of jurisdiction and applicable law

The place of performance is the delivery address specified by the Client or the place where the service is to be provided. All legal relations between the Parties shall be subject to Austrian law except for the conflict of law rules and under exclusion of the CISG (Convention on Contracts for the International Sale of Goods). The exclusive place of jurisdiction shall be Wiener Neustadt; however, at his discretion, the Client shall also be entitled to bring actions arising from the contract before the court that has subject-matter and local jurisdiction for this purpose as per the legal provisions applicable in the country in which the Contractor has his place of business or residence.

20. Severability

Should one or more provisions of these Terms and Conditions of Sale and Delivery be or become invalid, this shall not affect the validity of the remaining provisions. Invalid provisions shall be replaced by such provisions which come closest to the meaning and purpose of the invalid provision.

21. General

With the exception of flat-rate orders, the weight determined by the Client's calibrated factory scale shall be decisive for billing. The Client's order number must always be indicated on documents intended for the Client such as consignment notes, wagon labels, railway boxes, postal parcel cards, dispatch notices, delivery notes, packing slips, invoices, change notices and the like as well as all correspondence, which is to say, care must be taken to ensure it is quoted; the Contractor shall be liable to the Client for disadvantages which arise as a result of non-compliance with this obligation.

All contract-relevant documents are to be kept in German. Other agreements, declarations and further correspondence must also be written in German.