

# **General Terms and Conditions of Purchase**

## **of Becker Aluminium-Service GmbH**

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### **§ 1**

#### **General - Scope**

- (1) These General Terms and Conditions of Purchase (hereinafter: "Conditions") shall apply to all orders for goods and works and their processing. Any terms and conditions of the supplier that conflict with or deviate from these Conditions shall not apply, unless express agreement in text form. These Conditions shall also apply if we accept the delivery without reservation.
- (2) These Conditions shall only apply to contracts with entrepreneurs pursuant to sec. 14 of the German Civil Code (BGB).
- (3) These Conditions shall also apply to all future contracts.

### **§ 2**

#### **Offer - Conclusion of contract**

The preparation of offers shall be free of charge and non-binding to us. Verbal promises or agreements made by our employees shall not be binding to us unless confirmed by us in text form.

### **§ 3**

#### **Prices – Payment terms**

- (1) The agreed price is a fixed price. Unless otherwise agreed in writing, the price includes delivery "free domicile", including packaging.
- (2) The statutory value added tax is included in the price.
- (3) The processing of any invoices is subject to the mention of our order number; the supplier has to bear all consequences arising from any non-compliance with this obligation, unless he can prove he is not at fault.
- (4) Unless otherwise agreed in writing, we are entitled to pay the purchase price with a 2% discount within 14 days following delivery and receipt of the invoice or without any discount within 30 days after receipt of invoice.
- (5) Payment and discount periods shall run from receipt of the invoice, however not before the receipt of the goods, or, in the case of services, not before their acceptance, and, if documentation, test certificates in accordance with EN 10204 or similar documents are part of the scope of contract, not before receipt of such documentation by us.
- (6) The default interest rate shall be 5 percentage points above the base interest rate. We shall be entitled to prove that the actual damage caused by our default is lower.
- (7) We shall be entitled to rights of set-off and retention to the extent provided by law. In particular, we shall be entitled to retain the purchase price if and as long as agreed test certificates according to EN 10204 are not delivered to us.

### **§ 4**

#### **Delivery time**

- (1) Any agreed delivery dates or delivery times shall be binding.
- (2) The supplier shall inform us immediately in writing if circumstances occur or become apparent to him, which indicate that the agreed delivery time cannot be met.
- (3) In the event of a delay in delivery, we shall be entitled to claim liquidated damages in the amount of 1% of the order value per full week up to a maximum of 5% of the order value. The supplier shall be entitled to prove that the actual damage caused to us by his default is lower. Any further statutory rights resulting from the delay shall remain unaffected. In particular, we shall be entitled to claim damages instead of the performance following the expiry of a reasonable grace period to be set by us. Our claim for delivery shall not be excluded until the supplier has settled our claim for damages.

## **§ 5**

### **Delivery - transfer of risk - documents**

- (1) The supplier shall bear the risk of accidental loss and accidental deterioration, even in the case of "carriage paid" and "free domicile" deliveries, until the goods are handed over at the place of destination.
- (2) The supplier shall state our order number exactly on all shipping documents and delivery bills; if he fails to do so, we shall not be responsible for any delays in processing.
- (3) Any partial delivery is subject to our prior consent.
- (4) Unless otherwise agreed in text form, packaging costs shall be borne by the supplier. The supplier's obligation to take back the packaging shall be governed by the German Packaging Act (Verpackungsgesetz), it being understood that the return shall always take place at our registered office, unless otherwise agreed. The costs for the return transport and the disposal of the packaging shall in any case be borne by the supplier.

## **§ 6**

### **Inspection - Liability for defects**

- (1) We shall inspect the goods for any deviations in quality and quantity to the extent reasonable and technically feasible for us; any notice of defect shall be communicated to the supplier within a period of 5 working days by letter, fax, e-mail or telephone. The foregoing period shall commence at the moment we, or in the case of direct shipment our customer, have discovered or should have discovered the defect.
- (2) We shall be entitled to the statutory claims for defects in full; in any case, we shall be entitled to claim, at our discretion, either repair of the defect or new delivery. Any repair shall be deemed to have failed after the first unsuccessful attempt of repair. We shall further have the right to withdraw from the contract even if the relevant breach is only insignificant.
- (3) We are entitled to claim compensation for those expenses in connection with a defect which we have to bear in relation to our customer in case the defect was already present when the risk passed to us.
- (4) The limitation period for claims for defects shall be 36 months following the transfer of risk.

## **§ 7**

### **Product liability - Indemnification - Insurance**

- (1) If the supplier is responsible for a third party damage, he shall be obliged to indemnify us against any and all claims resulting from such damage upon first request, insofar as the cause lies within the supplier's sphere of control and organization and he himself is liable in relation to the relevant third party.
- (2) Within the scope of its liability for cases of damage pursuant to para. (1) of the present section, the supplier shall further be obliged to reimburse any expenses pursuant to Sec. 683, 670 of the German Civil Code (BGB) and Sect. 830, 840, 426 of the German Civil Code (BGB) arising from or in connection with a recall action carried out by us. We shall inform the supplier about the content and scope of the recall measures to be carried out - as far as possible and reasonable - and ask for his comments. Any further statutory claims shall remain unaffected.
- (3) The supplier undertakes to maintain a product liability insurance with coverage of € 10 million per personal injury / property damage. Any further claims for damages shall remain unaffected.

## **§ 8**

### **Declaration of origin**

- (1) Upon our request, the supplier shall provide us with a supplier's declaration on the preferential origin of the goods.
- (2) Where the supplier makes a declaration on the preferential or non-preferential origin of the goods sold, the following terms shall apply:
  - a) The supplier shall allow verification through customs authorities and submit all necessary information as well as any required certification.
  - b) The supplier shall compensate us for any damage if and as far as the competent authorities, due to any deficient certification or impossibility to verify, fail to acknowledge the declared origin, unless the supplier proves that he is not responsible for such consequences.

## **§ 9**

### **Retention of title – Material supplied by us - Tools - Confidentiality**

- (1) The supplier's terms and conditions regarding retention of title shall apply, it being understood that ownership of the goods shall pass to us upon payment thereof, excluding any current account reservation.
- (2) In case we provide material to the supplier, we shall retain title thereto (reserved goods). Any processing or transformation of the reserved goods shall always be carried out on our behalf as manufacturer within the meaning of sec. 950 of the German Civil Code (BGB), however without committing us in any way. If the reserved goods are processed or combined with other goods, we shall acquire co-ownership of the new item in the ratio of the value of the reserved goods (purchase price plus VAT) to the other processed goods at the time of processing. As our ownership might lapse as a result of such combining or mixing, the supplier hereby agrees to transfer to us the ownership rights to which he is entitled in the new item to the extent of the invoice value of the reserved goods and shall store them for us in safe conditions and free of charge. Our co-ownership rights shall be deemed reserved goods.
- (3) In case we provide tools to the supplier, we shall retain title thereto. The supplier is obliged to use these tools exclusively for the manufacture of the goods ordered by us. The supplier is obliged to insure these tools at replacement value against fire, water and theft damage at his own expense. At the same time, the supplier hereby assigns to us all claims arising from this insurance; we hereby accept the assignment. The supplier shall be obliged to carry out any necessary maintenance and inspection work on our tools as well as all maintenance and repair work at his own expense and in good time. He shall further notify us immediately of any malfunctions.
- (4) We reserve the property rights and copyrights to illustrations, drawings, calculations and other documents. Furthermore, such documentation is to be treated confidentially and may not be made accessible to third parties, unless express consent by us in text form. Such documentation shall not be used for other means than for the production pursuant to our order; after completion of the order any such documentation shall be returned to us without being requested.
- (5) At the supplier's request, we shall release any securities at our discretion, insofar as their value exceeds the purchase price of all reserved goods to be secured by more than 10 %.

## **§ 10**

### **Place of jurisdiction - Place of performance - Applicable version**

- (1) The place of jurisdiction shall be Bönen / Germany. However, we shall also be entitled to sue the supplier at any other general or special place of jurisdiction.
- (2) All legal relationships between us and the supplier shall be governed by the laws of the Federal Republic of Germany, including the provisions of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG).
- (3) Unless otherwise stated in the order, the place of performance shall be our registered office located in Bönen / Germany.
- (4) In case of doubt, the German version of these Conditions shall apply.