

Conditions of Sale of Boeckel + Co. (GmbH + Co.) KG

Definitions

In these conditions: "Seller" means the company supplying the goods or services, or a subsidiary.
"Buyer" means the individual, company or other party with whom the seller contracts.
"Contract" means the contract order for the purchase of goods or services.

1. General

- 1.1 These Conditions of Sale are applicable to all deliveries of goods or services of the seller.
- 1.2 In case of discrepancy between the English text and the German text the later shall prevail.
- 1.3 The seller repudiates other conditions of the buyer without explicit objection.
- 1.4 All other agreements differing from these conditions become valid only after they were confirmed in writing.

2. Place of performance, court of jurisdiction, governing law chosen

- 2.1 Place of performance is the seller's plant in Hamburg.
- 2.2 Courts of jurisdiction for all litigations resulting from or in connection with contractual relationship as well as for tortious acts of our staff members and for protest of a bill or cheque is Hamburg. However, we also reserve the right to take legal proceedings against the buyer at his place of domicile. The buyer agrees to the jurisdiction of the German Courts.
- 2.3 The formation, interpretation and operation of this contract will be subject to German Law, exclusive of the United Nations International Law of the 11th of April 1980 about contracts for international sale of goods.

3. Offers

- 3.1 The offers of the seller are without engagement.
- 3.2 The seller reserves the right to make technical alterations to the offered products.

4. Risk, conditions of delivery

- 4.1 After the goods leave the seller's company the risk will be born by the buyer. Risk of damage to or loss of the goods shall pass to the buyer as soon as delivery is taken by the buyer whether that be at the buyer's premises or at the seller's premises should the buyer collect the goods from the seller's premises.
- 4.2 Deliveries will be effected ex factory. Freight, packing and insurance will be born by the buyer if no other written agreement exists.
- 4.3 Partial deliveries are permissible if not expressly forbidden.

5. Deliveries of excess and shortage quantities

- 5.1 Deliveries of excess and shortage quantities of $\pm 10\%$ of the ordered quantity are permissible and have to be accepted by the buyer. The buyer has to pay for the actually delivered quantity.

6. Non-acceptance

- 6.1 If the buyer fails to accept the delivery within 3 days of notice in writing that the goods are ready for delivery the buyer shall be liable for all storage cost and other charges. The seller shall be entitled without prejudice to its other rights to resell or otherwise dispose of the goods.
- 6.2 The seller is entitled to claim damages of at least 25% of the value of the invoice.

7. Orders on call

- 7.1 Orders on call without fixed time limit have to be called off and accepted by the buyer in approximately equal partial deliveries during the agreed period of time. If no express period of time has been set, the buyer has to accept the remaining quantity of the goods latest 12 months after the date of order confirmation.

8. Delivery dates

- 8.1 Delivery dates quoted are approximate only.
- 8.2 The seller has met the date of delivery as soon as the goods have left the seller's premises or the buyer has been notified that goods are ready for dispatch.
- 8.3 The seller undertakes liability for damages caused by default only in case of the seller's purpose or gross negligence.
- 8.4 Any liability is limited to the net value of the goods.

9. Custom-made products

- 9.1 Custom-made products which are produced according to the buyer's instructions, drawings or samples which were approved by the buyer cannot be returned to the seller.
- 9.2 The buyer shall accept surplus or shortage quantities of $\pm 10\%$ of the ordered quantity. The buyer shall pay for the actually delivered quantity.

10. Tools

- 10.1 Tools, moulds or other equipment remains the seller's property even if the buyer has paid for their cost wholly or in part.

11. Copyright protection

- 11.1 The buyer shall be liable that products manufactured according to its instructions do not infringe any protective rights of any third party.
- 11.2 All damages caused by infringements shall be born by the buyer.

12. Minimum order value

- 12.1 The minimum order value is 100,00 Euro.
- 12.2 For order values less than 100,00 Euro the buyer has to pay an additional charge of 15,00 Euro.
- 12.3 The seller shall invoice the prices which are valid on the date of dispatch.

13. Terms of payment

- 13.1 The seller's invoices are due without deduction at the seller's account on the date specified in the invoice. Decisive is the date on which the payments are received on the seller's account.

14. Default of payment

- 14.1 If the buyer fails to make any payment on due date, then all his outstanding debits becomes due immediately and the seller will be entitled to cancel the contract or suspend any further deliveries to the buyer.
- 14.2 The seller has the right to charge the buyer interest on the amount unpaid. Interest will be charged at the rate of 12% per annum. The seller reserves the right to demand compensation of further cost caused by the buyer in connection with the contract.

15. Return of goods

- 15.1 The buyer has to ask for the seller's assent before returning any goods.
- 15.2 If the seller agrees to return of faultless goods the buyer has to pay a handling charge of 15% of the value of the goods as compensation.

16. Price changes

- 16.1 The seller reserves the right to adjust its prices in case of unforeseen increases in cost caused by increased cost of material, energy or duties.

17. Property

- 17.1 The goods shall remain the property of the seller until the buyer has paid their price in full.
- 17.2 Notwithstanding delivery at the passing of risk in the goods or any other provision of these conditions the ownership of the goods shall not pass to the buyer until the seller has received in cash all cleared funds payment in full of the price of the goods and all other goods agreed to be sold by the seller's to the buyer for which payment is then due.
- 17.3 Until such time as the ownership of the goods passes to the buyer, the buyer shall hold the goods as the seller fiduciary agent and bailee and shall keep the goods separate from those of the buyer and third parties and properly stored, protected, insured, and identified as the seller's property, but the buyer shall be entitled to re-sell or use the goods in the ordinary course of its business.
- 17.4 Until ownership passes the buyer shall take all reasonable steps to keep the goods separately identifiable from other property, but shall not be prohibited from using such goods in the in the ordinary course of its business. The buyer may resell the goods but shall account to the seller for the proceeds of the sale or otherwise of the goods.
- 17.5 Until such time as the ownership of the goods passes to the buyer (and provided that the goods are still in existence and have not been resold) the seller shall be entitled at any time to require the buyer to deliver up the goods to the seller and if the buyer fails to do so forthwith the seller or any third party is entitled to enter upon any premises of the buyer or any third party where the goods are stored, and repossess the goods.
- 17.6 The buyer shall not be entitled to pledge in any way charge by way of security for indebtedness any of the goods which remain the property of the seller but if the buyer does sell all monies owing by the buyer to the seller shall (without prejudice to any other right or remedy of the seller) forthwith become due and payable.
- 17.7 The buyer herein duly irrevocably appoints the seller (and its agents) to be its lawful attorney for the purpose of entering on such property as the seller shall require from time to time to do so in order to repossess the goods in accordance with these conditions.

18. Warranty

- 18.1 The entire liability of the seller under or in connection with the contract shall not exceed the price of the goods or services.
- 18.2 The buyer's right to warranty for consumables presupposes that the goods have been used, stored and transported duly. In case the buyer does not comply with these duties about handling the goods any warranty expires.
- 18.3 No warranty is given that the goods are suitable for any particular or special purpose or for use in connection with any equipment unless expressly given in writing by the seller. The warranty for consumables ends on the sell-by date given or the latest 12 months after the date of the invoice.
- 18.4 Any claim has to be made in writing detailing exactly the claimed fault.