

## **General Terms and Conditions of Business of bwz Schwingungstechnik GmbH**

### **1. Scope of application of the General Terms and Conditions of Business**

1.1 For all contractual relations with the purchasing party, these General Terms and Conditions of Business apply, even so, if they are not explicitly agreed upon with consecutive business deals.

1.2 With the initial delivery of services and goods according to these General Terms and Conditions of Business, the purchasing party accepts these General Terms and Conditions of Business as exclusively legally binding for all consecutive contractual relationships.

1.3 Deviating conditions of the purchasing party are valid only, if they have been explicitly accepted by us in written form. They do not become part of the contract even then, if we do not explicitly opt out from them.

1.4 Our General Terms and Conditions of Business apply only for contracts with business companies.

### **2. Offer and Order Placement**

2.1 By means of issuing offers, we are not obliged to execute the delivery when receiving the order.

2.2 Bookings are converted into an order only once confirmed by us in writing, or once the delivery has been executed.

2.3 In case of a written order confirmation, the same is binding for the content of the contract. Additional side agreements, changes or assurances of certain properties require the written form.

### **3. Prices and terms of payment**

3.1 Our prices are in Euro excluding packaging, shipping and insurance cost, ex works our warehouse. We reserve the right to adjust our prices appropriately, if after contract closing a decrease or increase in cost occurs, especially due to material price changes.

3.2 Our invoices are due for payment within 10 days with 2 % cash discount, or within 30 days without cash discount deduction.

3.3 If our invoices are not settled within 30 days without deduction, the purchaser owes the seller

default charges as per the law, i.e. 8 % above the base interest rate p.a.

3.4 Payments always settle the oldest invoices.

3.5 Means of payment other than bank transfers or cheques shall be accepted only on account of payment.

### **4. Delivery Time**

4.1 We endeavour to keep agreed delivery times. Liability claims due to violation of an agreed delivery time are excluded, except the delayed delivery is based on gross negligence or intent for which we are responsible.

4.2 Is a delivery time agreed upon, the prerequisite for compliance with it is, that the buyer likewise meets his contractual obligations, provides the necessary documents, and makes the stipulated down payments.

4.3 The delivery date is met, if the goods have left our delivery warehouse in Ostfildern until its expiry, or the readiness for dispatch is communicated.

4.4 If we are responsible for exceeding the delivery date ( exception: force majeure or strike ), the buyer can rescind from the contract after effect less expiry of a grace period. Extended liability according to § 287 BGB is excluded. Compensation due to delay will be owed by us only in the case of intentional or grossly negligent action by us.

### **5. Dispatch and passing of risk**

5.1 Dispatch will be executed via a carrier of our choice. If the buyer has designated a carrier in the course of ordering, we will ship with this carrier.

5.2 Freight charges are at the buyer's expense.

5.3 All permissions for import into the country of destination are to be obtained by the buyer, and have to be provided to us.

5.4 The risk passes to the buyer, once the material is handed over to the carrier.

### **6. Reservation of ownership**

6.1 The goods delivered by us remain our property, until the buyer has paid all receivables we hold against him.

6.2 The buyer must not pawn or put to cession by security the delivered goods prior to payment. He has to inform us about seizures, impoundments or other ordinances of third parties promptly.

6.3 The buyer is allowed to sell the goods, on which we have declared reservation of ownership, within the scope of a regular business operation, and collect the receivables ceded.

6.4 If the buyer sells the goods, he cedes the rights towards his buyers, which are due to him from the sale, including all side dues and securities, to us, until all receivables, which we hold against him, are settled. In the case of arrears of the buyer, we can demand that the buyer communicates the assignment of the debt to his buyers, and that he furnishes all particulars and hands over all documents, which are necessary in order to collect the receivables ceded.

6.5 When processing and re-processing, we are regarded as manufacturers within the scope of § 950 BGB, and acquire ownership for the intermediate or final product.

6.6 In the case of connection of goods, which have been delivered by us under reservation of ownership, with things that are in property of the buyer or a third party, we acquire joint ownership according to § 947 BGB.

6.7 If receivables of the buyer, resulting from the resale of our goods subjected to retention of title, are added to a current account, the buyer cedes the respective payment claims to us, amounting to the respective balance and limited to the amount of our receivables against him.

6.8 The buyer is allowed to collect the receivables ceded to us, except he is in delay of payment, or has ceased the payments.

6.9 If the value of the collateral conceded to us for the processed goods exceeds our receivables towards the buyer by more than 20 %, we are, if demanded by the buyer, obliged to release the further collateral.

## 7. Warranty and liability

7.1 The delivered goods have to be examined by the buyer immediately after receipt. Identifiable flaws have to be notified of in written form within seven days after receipt. Flaws that are occurring subsequently, are to be notified of immediately in written form.

7.2 If the goods delivered by us have flaws, for which we are liable, the claim of the buyer is limited to our choice of either rework or exchange of the flawed goods. If flaws can neither by rework nor by exchange finally be removed, despite fixing of an

appropriate grace period by the buyer, the buyer is entitled to withdrawal from the contract or to reduction.

7.3 If the goods delivered by us are, due to their technical features, able to be dispatched, the buyer is, when claiming warranty rights, obliged upon our request, to send us back the delivered goods at our cost for examination. Further claims of the buyer, especially for reduction, withdrawal or compensation, are – where legally permissible – excluded. This is applicable also for consequential damages and claims from positive contract violation. The exclusion is not applicable, as far as the deficiency can be attributed to us due to gross negligence or intent. In these cases however, the compensation claim will be limited to the replacement of the predictable typically occurring damage.

7.4 The liability due to culpable injury of life, body or health remains unaffected; this applies also to the mandatory liability according to the Product Liability Law.

## 8. Right of Retention and offsetting

The buyer is, due to possible counterclaims, not entitled to hold back his payments or offset with counterclaims. This does not apply, if the counterclaims of the buyer have been accepted by us, or have been legally determined.

## 9. Applicable law, place of fulfilment and place of jurisdiction

9.1 The legal relationship between us and the buyer – as far as his headquarters are located in Germany – are governed by the laws of the Federal Republic of Germany. With buyers, whose headquarters are located outside Germany, the application of the UN-Sale of Goods Law ( CISG ) is agreed upon.

9.2 Place of fulfilment for deliverables of both contractual partners are our headquarters.

9.3 As far as the buyer is a registered trader, a corporate body under public law or a special fund under public law, our headquarters are agreed upon as the exclusive place of jurisdiction. We reserve the right to file a suit at the place of business of the buyer instead.

Ostfildern, 15-Feb-2017