



General Terms and Conditions of Sale (GTCS)

Issued: March 23, 2018

§ 1 Scope

(1) The following General Terms and Conditions of Sale ("GTCS") shall apply to all sale relationships including services associated therewith (supply agreements) between I.G.Bauerhin GmbH ("Bauerhin") as seller and its customer ("Purchaser") insofar as the Purchaser is a business owner, legal entity under public law or special fund organized under public law. These GTCS shall apply exclusively. Any general terms of Purchaser which differ from, contradict or supplement these GTCS shall be considered a part of the parties' contract only if and insofar as Bauerhin has explicitly agreed to their applicability on a case-by-case basis.

(2) These GTCS in their respective version shall also serve as a framework agreement for future agreements on the sale and/or supply of goods or services ("Products") executed with the same Purchaser without Bauerhin having to refer to them again in each individual case.

§ 2 Offers and Contract Execution

(1) Supply contracts (orders and acceptance) and supply call-offs including modifications and supplements must be in writing in order to be effective. Supply call-offs may also be made by data transmission or machine-readable data media.

(2) If Bauerhin does not accept the order within three weeks after receipt, the Purchaser shall be entitled to withdraw from the contract. Supply call-offs shall become binding if Bauerhin does not object within two weeks after receipt.

§ 3 Documents and Data

Product descriptions, documents, drawings and data ("Information") provided by Bauerhin to Purchaser, including those in electronic format and all rights to the Information, shall remain the exclusive property of Bauerhin. The Purchaser will not disclose such Information to any third party unless and until expressly authorized in writing to do so by Bauerhin. If the supply contract should not come into effect in the period stated in § 2, the Purchaser shall then return all Information and copies thereof to Bauerhin without further delay.

§ 4 Prices and Payment

(1) Bauerhins prices, in effect at the time of delivery, plus statutory value added tax, shall apply. Unless expressly agreed otherwise, delivery condition shall be "EXW" specified by the INCOTERMS applicable on the date the contract is concluded. Any provision of packaging by Bauerhin is not included and subject to special conditions.

(2) Payments have to be made by transfer to one of Bauerhins bank accounts.

(3) The purchase price shall be due upon receipt of the invoice and, unless otherwise agreed or specified in the invoice, payable without discounts within twentyone (21) days from the date of the invoice.

§ 5 Set-Off and Retention of Payments

Purchaser is only entitled to offset if its claims are undisputed or judicially established as final and absolute. Retention by Purchaser shall be excluded, unless Purchasers claim and payment results from the same contract.

§ 6 Period of delivery

(1) The period of delivery shall commence only after the Purchaser has fulfilled his contractual obligations. Bauerhin reserves the right to plead the lack of performance of the contract by Purchaser.

(2) In case of default of acceptance by Purchaser or the lack of performance of the contract by Purchaser Bauerhin is entitled to receive compensation for any additional cost resulting from such action. Bauerhin reserves the right to claim further damages. In this case the risk of accidental destruction, deterioration or loss of Products shall pass to Purchaser.

(3) In the case of delay of delivery Bauerhin shall compensate Purchaser with an amount of 3 % of the value of the goods supplied for each full week of delay, but limited to 15 % of the value of the goods.

(4) Further rights or claims of Purchaser because of delay or default of delivery shall remain unaffected.

§ 7 Transfer of Risk

If the Purchaser requests shipment of the the goods ordered, the risk of accidental destruction, deterioration or loss of Products shall pass to Purchaser. This shall be the case independent of the payment of freight costs.

§ 8 Retention of Title

(1) Until receipt of full payment of all current and future receivables under the current business relationship between Bauerhin and Purchaser including incidental receivables and claims for damages ("Secured Receivables") Bauerhin reserves title in the Products sold ("Products under Title Retention"). Until the Secured Receivables are fully paid, Products under Title Retention may neither be pledged to third parties nor transferred as securities. Purchaser shall inform Bauerhin immediately in writing in the event of third parties attempting to take possession of the Products under Title Retention.

(2) If Products under Title Retention are intended for commercial resale by Purchaser, Purchaser is entitled to sell them to its customer as part of its ordinary course of business. With respect to such a resale, the Purchaser hereby assigns to Bauerhin, and Bauerhin hereby accepts, as security all of the future claims, including subsidiary claims, the Purchaser will have against its customer in consideration for the resale of the Products under Title Retention. Bauerhin is entitled to collect the claims so assigned on its own behalf if the Purchaser is in default of meeting its payment obligation concerning the Products under Title Retention, if a petition for the initiation of insolvency proceedings has been filed or in case of another lack of the Purchaser's capacity of performance from which Bauerhin can deduce a potential threat to the realization of its claims. In such events, Bauerhin may request that Purchaser discloses to Bauerhin the assigned debt claims and the respective debtors, provides all necessary information for debt claim recovery, hands over all documents pertaining and notifies the debtors (third parties) of the assignment.

(3) In the event of a combination or inseparable commingling, as defined by Sections 947 or 948 BGB, of the Products under Title Retention with other items not belonging to Bauerhin in such a way that one of the other items becomes the principal item, the parties are deemed to have agreed that the Purchaser shall transfer to and maintain for Bauerhin a co-ownership interest in the newly created item in proportion to the value of the Products under Title Retention relative to the value of the other combined or commingled items. The parties hereby consent now to the passing of title that would accompany such a combination or commingling.

(4) If the collateral pledged to Bauerhin as provided for in this § 8 exceeds Purchaser's respective secured total liabilities towards Bauerhin by more than 20%, Bauerhin is required, at the request and discretion of the Purchaser, to release security up to the amount by which the threshold of the total secured liability has been exceeded.

§ 9 Warranty, Claim of Defect and Liabilities

(1) Purchaser must notify Bauerhin in writing (written form), giving an exact description of the defect; for obvious defects, such notification must take place immediately after delivery. In case of hidden defects, Section 377 (3) of the German Commercial Code (Handelsgesetzbuch; HGB) applies

(2) The regular limitation period of claims against Bauerhin shall be two (2) years after delivery to Purchaser. Mandatory limitation periods of law shall remain unaffected. Before returning defective Products to Bauerhin, the Purchaser shall request approval from Bauerhin.

(3) If the Products supplied are defective and Purchaser has fulfilled its duties in accordance with § 9, Bauerhin - at its sole discretion - shall be entitled to either cure the defect or to supply Purchaser with non-defective Products (supplementary performance). Purchaser must allow Bauerhin the time and opportunity required for the supplementary performance owed and, in particular, return the Products concerned for testing purposes.

(4) If supplementary performance fails or is unreasonable for Bauerhin, Purchaser may either withdraw from the contract or demand a reduction of the purchase price.

(5) Purchaser is not entitled to claim defects in case of minor deviations of the Products from specifications, or in case of minor restrictions of proper intended use. Claim of defects as a consequence of regular tear and wear of Products or as a consequence of improper use of Products is excluded. Any modification of Products or repair by third parties shall result in loss of right to claim defects.

(6) In case of defects any claim governed by statutory provision remains unaffected. Characteristics and properties of Products shall be binding only insofar as they have been explicitly agreed to be warranted.

(7) Claims of the Purchaser for cost for supplementary performance, in particular for shipping and transport, as well as for labour and materials, shall be excluded if (a) Purchaser's request to have defective Products remedied proves to be unjustified or (b) the Products were later moved to a location other than Purchaser's place of business, unless this move coincides with the proper intended use.

(8) Statutory recourse claims of Purchaser against Bauerhin shall only exist insofar as Purchaser and its customers have not concluded any kind of agreement which exceeds the statutory warranty claims. Section (7) of this § 9 shall apply accordingly.

§ 10. Liability

(1) If not stated otherwise in these GTCS, liability of Bauerhin is limited to hold Purchaser harmless for damages, which result from defective Products or negligence of governmental security regulations or other legal reasons within the sphere of Bauerhin's responsibility.

1. Bauerhin shall be held responsible only in those cases as specified in § 9.

2. If in an individual case Purchaser is liable for a third party's claim because of mandatory provisions of law, Bauerhin shall indemnify Purchaser up to the limit, which would apply as in the case if the third party would file the claim directly with Bauerhin. For settlement of damages between Purchaser and Bauerhin § 254 BGB shall apply. As before, in case of a third party files a claim directly with Bauerhin, § 254 BGB shall apply.

3. Bauerhin shall not be liable, insofar as Purchaser has effectively limited liability towards his customer.

4. All claims are excluded if damages are caused by Purchaser's negligence of instructions for operation, service or maintenance of Products, improper or faulty use of Products or natural wear and tear

5. Any preventive action of Purchaser taken to reduce or limit damages (e.g. recall actions) shall be liability of Bauerhin, as far as Bauerhin is liable because of statutory regulations.

6. Purchaser must notify Bauerhin without delay if he intends to file a claim based on sections 1 through 5. Purchaser must provide detailed information and consult with Bauerhin. Bauerhin shall have the opportunity to analyse the damage in detail. All further actions need to be mutually agreed with Bauerhin and Purchaser.

§ 11. General Provision

(1) These GTCS and all legal relationships between Bauerhin and Purchaser shall be governed by the laws of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

(2) The venue for all disputes, including international ones, arising directly or indirectly out of or in connection with this contractual relationship shall be Gelnhausen, Germany. However, Bauerhin is also entitled to take legal action at the general venue of the Purchaser.

(3) Should individual parts of these GTCS be legally invalid, this shall not affect the validity of the other provisions. The contractual parties shall replace the invalid provision with a valid provision coming as close as possible to its content and commercial success.
