

General Delivery and Payment Conditions



BEEWATEC

Processes connected with flexibility

Between BeeWaTec EastTrade S.R.L. Strada Linistei Nr. 2, RO-400398 Municipiul Cluj-Napoca and the Purchaser, Version September 2018

I. Field of Application

1. The following sales conditions apply to all contracts concerning the supply of goods concluded between the purchaser and ourselves. They also apply to any future business relations, even if not expressly agreed. Different conditions laid down by the purchaser that are not expressly recognised by us are not binding upon ourselves, even if we do not expressly contradict them. The following sales conditions also apply where we process the purchaser's order without reservation while aware of contradictory or deviant conditions set by the purchaser.
2. All agreements made between the purchaser and ourselves regarding the processing of sales orders are set down in writing in the contracts.

II. Offer and Conclusion of Contract

1. We are able to accept an order from the purchaser that qualifies as an offer for the concluding of a sales contract by sending a confirmation of contract within two weeks or by forwarding the products ordered before the same deadline.
2. Our offers are subject to change and non-binding unless we have expressly described them as binding.
3. We retain the property, copyright and other proprietary rights regarding all our illustrations, calculations, drawings and any other documentation. The purchaser may pass these on to third parties only with our written consent, regardless of whether or not we have designated these as confidential.

III. Payment conditions

1. Our prices are ex-works and do not include packing, unless an alternative arrangement is stipulated in the confirmation of order. VAT is not included in our prices. This is set out separately in the invoice according to the percentage applicable on the day the invoice is issued.
2. Any price reduction is permissible only with special written agreement between us and the purchaser. The purchase price is net (without any deduction) and is to be paid by the purchaser immediately upon receipt of invoice unless alternative terms of payment are set out in the confirmation of order. Payment is regarded as effected when the sum is at our disposal. In the case of payment by cheque, payment is effected when the cheque is cashed.
3. The purchaser is entitled to compensation – even if notification of defects or counterclaims are asserted – only if the counterclaims are established as legally valid, recognised by ourselves or are uncontested. The purchaser is only entitled to exercise right of retention if his counterclaim relates to the same contractual relationship.

IV. Delivery and Servicing Times

1. Supply dates or deadlines not expressly agreed as binding are exclusively non-binding. The delivery time stated by us only commences when technical questions have been settled. The purchaser has likewise to fulfil all obligations for which he is liable in a proper and timely way.
2. In relation to the purchaser(s), we are liable to the extent of the Romanian legal requirements. The same applies if the purchaser asserts discontinuance of his interest in the completion of the contract as a result of a delay in delivery on our part. In this case our liability is limited to predictable and typical damages caused if the delay in delivery is not due to deliberate infringement of the contract by ourselves, where the fault is attributable to our representatives or agents. We are also liable to the purchaser in the case of a delay in delivery according to the statutory provisions if this is due to deliberate or grossly negligent infringement of the contract on our part, where the fault is attributable to our representatives or agents. Our liability is limited to predictable and typical damages caused if the delay in delivery is not due to deliberate infringement of the contract by ourselves.
3. In the eventuality that the delay in delivery caused by ourselves is due to infringement of an essential contractual obligation, where the fault is attributable to our representatives or agents, we are liable according to the statutory provisions to the extent that in this case our liability for damages is limited to predictable and typical damages caused.
4. Apart from this, in the case of a delay in delivery caused by us, the purchaser may receive a flat rate compensation of 0.5% of the delivery value for each complete week of delay. This may, however, not exceed 5% of the value of the goods delivered.
5. Further liability for delay in delivery caused by us is excluded. Further legal claims and rights on the part of the purchaser, in addition to a claim for damages caused by a delay in delivery on our part, remain unaffected.
6. We are at all times entitled to carry out deliveries and services in part, provided this is acceptable to the client.
7. In the case of default of acceptance on the part of the purchaser we are entitled to require compensation for the resulting damages and any additional expenditure. The same applies if the purchaser wrongly infringes his duty to cooperate. The threat of accidental impairment and loss is transferred to the purchaser in the eventuality of a delay in acceptance or default of the debtor.

V. Transfer of risk, Dispatch/Packaging

1. Loading and dispatch are uninsured and at the purchaser's risk.
2. We do not take back transport and other packaging in accordance with packaging regulations, with pallets being an exception to this rule. The purchaser is responsible for disposal of packing materials at his own cost.
3. If dispatch is delayed either due to the purchaser's wishes or through his own fault we shall store the goods at the cost and risk of the purchaser. In this case notification that the delivery is ready for dispatch is considered as dispatch.

VI. Warranty/Liability

1. Cumpărătorul trebuie să examineze bunurile imediat după 1. The purchaser must examine the goods immediately after their delivery, and upon the discovery of any defect must immediately give notice thereof to BeeWaTec. Warranty claims by the purchaser can be entertained only if the purchaser properly complies with the obligation to inspect and notify set out herein.
2. If we are presented with a defect in goods for which we are responsible we are obliged to withdraw from the contract to the exclusion of the purchaser's rights, or to subsequently reduce the purchase price unless we are entitled by statutory provisions to refuse subsequent performance. The purchaser is to grant a reasonable time limit for subsequent fulfilment. We agree and shall be obliged to repair the product within a term of maximum 15 (fifteen) calendar days from the moment the buyer has submitted the product with BeeWaTec. However, depending on the nature of the repair, we, in agreement with the purchaser, could prolong the repair term mentioned herein. According to the purchaser's wishes this may take the form of elimination of the defect (improvement) or delivery of new goods. We bear the necessary cost where the elimination of defects is involved, provided this does not increase due to a change in the place of delivery of the items involved in the order. Should it be impossible to carry out revisions the purchaser may either choose to demand a reduction of the purchase price or declare withdrawal from the contract. Subsequent performance is regarded as abortive after the second failed attempt if, owing to the subject of the contract, no further attempts at subsequent fulfilment are appropriate and acceptable to the purchaser. Claims regarding the following conditions because of the defect may be made by the purchaser only if subsequent performance fails. The purchaser's right to enforce further claims for damages under the following conditions remains unaffected by this.
3. The purchaser's warranty claims lapse one year after delivery of the goods to the customer unless we have fraudulently remained silent regarding the defect. In this case the statutory provisions apply. Our obligations as set out in paragraph VI, no. 4 and paragraph VI, no. 5 remain unaffected.
4. In compliance with statutory provisions we are obliged to take back new goods or to reduce the purchase price, even with the setting of a deadline that would otherwise be required, if the purchaser's buyer of the new movables (consumer sales) might demand as a consumer either the return of the goods to the purchaser or a price reduction due to a defect in the goods, or the purchaser is faced with such claims. We are, moreover, obliged to reimburse the purchaser for his expenditure, especially regarding transport, shipping, labour and material costs, that he had to bear vis-à-vis the end user in subsequent performance due to a transfer of risk from us to the purchaser regarding the defective goods. The claim is excluded if the purchaser does not properly comply with the obligation to inspect and notify in terms of para. VI.1 above.
5. The obligation in compliance with paragraph VI, no. 4 is excluded if a defect is due to advertising statements or other contractual agreements not originating with us, or if the purchaser has given the end user a particular guarantee. The obligation is also excluded if the purchaser himself was not bound to exercise guarantee rights vis-a-vis the end user due to statutory provisions or if he did not deal with this notice of defect regarding a claim made against him. This also applies if the purchaser has assumed guarantees vis-à-vis the end user that are over and above what is prescribed by law.
6. Within the terms of the Romanian Civil Code we are unrestrictedly liable for injury to an individual's physical or mental integrity, where this results from negligent or deliberate violation of obligations on our part or on the part of our legal representatives or agents. For injury or damage not covered by clause 1 and which results from negligent or deliberate violation of the contract as well as fraudulent intent on our part or on the part of our legal representatives or agents, we are accountable under the statutory provisions. In this case liability for damages is limited to predictable and typical damage caused in as far as we, our legal representatives or agents have not acted deliberately. Where we have given a quality guarantee regarding the goods or parts thereof, we are liable within the framework of that guarantee. For damage relating to deficiencies in the guaranteed quality but which does not directly affect the goods we are, however, only liable if the risk of such damage is clearly covered by the quality guarantee.
7. We are also liable for damage caused by simple negligence in as far as the negligence affects the infringement of those contractual obligations whose adherence is of especial importance for achieving the aim of the contract (cardinal obligations). We

are, however, only responsible if the damage is typically associated with the contract and is predictable.

8. More extensive liability is excluded without regard to the legal nature of the applicable claim. This applies in particular to tortious claims or claims for reimbursement for failed expenditure rather than service. Our liability here remains unaffected in compliance with paragraph 4, no. 2 to paragraph IV, no. 5 of this contract. If our liability is excluded or limited, this applies also to the personal liability of our employees, staff, workers, representatives and agents.
9. The purchaser's warranty claims due to a defect lapse one year after delivery of the goods. This does not apply in cases where we, our legal representatives or agents have caused injury to life, limb or health, or if we or our legal representatives have acted deliberately or with gross negligence.

VII. Retention of Title

1. Until all requirements have been fulfilled, including all current account payment claims that we are or will be entitled to from the purchaser, the goods supplied (goods subject to retention of title) remain our property. In the case of conduct contrary to contract (e.g. delay in making payments) we shall have the right, after prior settlement on a suitable deadline, to take back the goods that are subject to retention. This is to be taken as a withdrawal from the contract. Seizure of the goods by us represents a withdrawal from the contract. We are entitled to dispose of the goods after taking them back. After deduction of a reasonable sum for the costs of disposal, the proceeds of sale are to be offset against the sums owed by the purchaser.
2. The purchaser is to handle the goods that are subject to title with care, and to protect these at his own cost against fire, water or theft commensurate with the replacement value.
3. The purchaser is entitled to properly dispose of the goods subject to title by way of business and / or to use them provided he is not in default of payment. Pledging or transfer by way of security is not permitted. Claims concerning resale or any other legal reason (insurance, impermissible handling) relating to the goods subject to title (including all current account payment claims) are to be assigned to us in full by way of security by the purchaser. We hereby accept the assignment. We revocably authorise the purchaser to collect in his own name the claims assigned to us for his account. The collection authorisation can be revoked at any time if the purchaser fails to meet his payment obligations in due form. The purchaser is also not authorised to transfer this claim for the purpose of debt collection by way of factoring unless at the same time the factor can be shown to have an obligation to directly pass on to us the consideration in the amount of the claims where we still have claims against the purchaser.
4. Processing or altering of the goods subject to title by the purchaser is in any case carried out for us. If the goods are processed with other items not belonging to us we shall acquire joint ownership of the new items to the value of the goods subject to title (final invoiced sum including VAT) relative to the other processed items at the moment of processing. The same applies to the newly processed items as to the goods that are subject to title. In the event of an inseparable mix of goods subject to title with others we shall acquire joint ownership of the new items that do not belong to us to the value of the goods that are subject to title (final invoiced sum including VAT) relative to the other processed items at the moment of processing. If as a result of the mixing the purchaser's items are to be regarded as the main object, we and the purchaser are in agreement that the purchaser proportionately transfers joint ownership of these items. We hereby accept the assignment. The purchaser shall store the resulting items owned or jointly owned by us.
5. In the case of third party access to the goods subject to title, especially through pledging, the purchaser is to refer to our ownership and to inform us without delay in order that we can assert our property rights. If the third party is not in a position to reimburse us for the court or out-of-court costs arising in this connection, the purchaser is liable for these.
6. We are obliged to release the securities owing to us in so far as the realisable value of our securities exceeds the claims to be secured by more than 10%. The choice of securities to be released is ours.

VIII. Place of Delivery, Place of Jurisdiction, Applicable Law

1. Our head office is the place of delivery and of jurisdiction for deliveries and payments (including cheque and exchange claims), as well as all disputes arising between ourselves and the purchaser out of the purchase contracts concluded between him and us. We are nevertheless entitled to bring an action against the purchaser in his place of residence and/or business premises.
2. The relations between the contractual parties are regulated exclusively according to the applicable law of Romania. The application of unified law in connection with the international purchase of movables as well as the law governing the concluding of international purchase contracts for movables is excluded.