

General Terms of Sale and Delivery

of BYK-Gardner GmbH ("BGG") / 2010

I. General Provisions

1. The following terms of sale and delivery shall apply for all existing and future delivery contracts, if they are not expressly altered or excluded in the contract; any other previous provisions shall herewith become ineffective.
2. BGG shall not be bound by any deviating conditions of the Customer, even in the event that BGG does not explicitly object to such terms. By placing orders with BGG, the Customer accepts these General Terms of Sale and Delivery as legally binding.
3. All offers and the particulars contained therein are not binding. The sales contract becomes legally binding only upon BGG's written confirmation of the order. In the event that a delivery is made immediately without confirmation, the invoice of such delivery shall be regarded as confirmation of the order.
4. The direct sales personnel of BGG are not entitled to conclude any legally binding sales contract, to grant any delay in payment of the purchase price, to agree on settlements nor to collect money. In case a reduction of the purchase price was granted, this reduction shall become valid only upon a written confirmation.
5. In the event that further technical developments result in changes to the product after the conclusion of the contract, BGG is entitled to deliver the technically altered product. BGG is entitled to deviate from illustrations, drawings, descriptions, colours and dimensions, weight, quality and other details, to the extent that such is reasonable for the Customer taking into account the interests of both parties.
6. BGG is entitled to make partial deliveries and to claim separate payment in respect thereof, as far as this is reasonable for the customer.
7. BGG shall not be obligated to process any inquiries or orders from persons, companies, organizations and/or countries that are listed on any national or international official list of sanctions and embargos.
8. The Customer commits to use the product exclusively according to the rules and to abide by the valid and applicable European Union regulations regarding international commercial law (embargo, dual use).

II Prices

1. All deliveries are invoiced in Euro. Prices include packaging ex works. In respect to deliveries within the Federal Republic of Germany V.A.T. shall be invoiced according to legal regulations.
2. List prices may be changed within reason in the event of changes in the price calculation basis which are not subject to BGG's control such as cost of materials and work (e.g. wage settlements). Orders with an agreed delivery period of more than four months shall be invoiced at list prices applicable upon the respective day of delivery, in case fixed prices have not expressly been agreed upon.

III Delivery and Passing of Risk

1. Shipments shall be made at Customer's risk ex works. The risk of ownership shall pass to the Customer upon notification of the readiness for collection of the goods. This shall also apply for partial deliveries. In case it was agreed upon to deliver the goods to another location, the risk shall pass to the Customer upon dispatch; furthermore the Customer shall bear the additional costs resulting from packaging, transport, and insurance.
2. Packaging which is returned for disposal shall be taken back as long as no shipping costs result for BGG.
3. In the event that manufacture, procurement or delivery of goods is delayed or prevented by any event of force majeure, raw material shortage, legal national and international regulations regarding embargo, fight against terrorism or any other regulations, operational disruptions or industrial disputes (strike and lockouts) in the works of BGG or its deliverers or carriers, BGG shall not be obligated to make a delivery for the period of such prevention. BGG shall not be responsible for the aforementioned circumstances even in such case that these have come into being during an already existing default. In the event that the prevention should continue for more than six months or should the delivery become impossible, both parties are entitled to rescind the contract. In such event, the Customer is not entitled to damages in respect thereof.

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IV Reservation of Title

1. The goods delivered ("reserved goods") shall remain the unrestricted property of BGG until the full settlement of all liabilities of the Customer arising out of business dealings with BGG. This shall also apply where a single or all liabilities are included in a current account and where the balance is recognized.
2. The Customer shall only be entitled to resell the reserved goods within the usual course of business subject to the proviso that he agrees on a similar reservation of title with his customers. The Customer is not entitled to make any other disposition of the reserved goods, in particular the Customer may neither pledge nor encumber the goods with a lien or charge.
3. In the event of resale, the Customer hereby assigns to BGG all claims and rights including all ancillary rights against his customers accruing to the Customer from the resale. At the request of BGG, the Customer is obligated to inform his customers of such assignment and to provide all information and to surrender all documentation necessary for the enforcement of the rights of BGG against his customers.
4. The Customer remains entitled to collect such claims after having assigned these claims to BGG. This does not affect BGG's authority to collect such claims themselves: However, BGG shall not collect the claims as long as the buyer duly discharges his liabilities and other obligations.
5. If the reserved goods are resold by the Customer together with other goods not belonging to BGG, the assignment of the claimed purchase price pursuant to paragraph 3 above shall only apply to the invoiced value of the reserved goods of BGG.
6. If the value of the existing securities should exceed the entire claim of BGG by more than 20 %, BGG shall, at the demand of Customer, be obligated to release the securities at BGG's choice to the extent of such excess.
7. BGG has to be notified without delay regarding the seizure or confiscation of the reserved goods by a third party. Any legal costs arising from any intervening action of BGG against such measures shall be borne by the Customer.
8. In the event that BGG should make use of this reservation of title by retracting the reserved goods in accordance with the above provisions, BGG is entitled to sell or auction the goods at its discretion; the proceeds – less reasonable charges – shall be deducted from the Customer's liabilities. BGG reserves its right to make further claims for damages, in particular for loss of profits.
9. The retraction of the reserved goods shall not be considered as cancellation of the contract unless otherwise declared.

V Conditions of Payment

1. The invoiced amount is due for payment without any deductions within 30 days after the date of the invoice. In case payment is received within 14 days, BGG grants a deduction of 2 %. If payment is not made within the stipulated period, it shall be deemed to be in arrears without previous notice thereof. BGG reserves the right to charge interest on arrears amounting to a minimum of 8 % exceeding the respective base interest rate of the European Central Bank and to enforce any further claims BGG may have.
2. Bills, the acceptance of which is within BGG's absolute discretion, are only accepted for purposes of payment. BGG does not take over any obligation regarding the premature presentation or protestation.
3. Reductions or offsetting amounts are only permissible if the counterclaim has been recognized by BGG or has become legally binding.
4. In case the order value exceeds five thousand EURO / 5.000,- EURO (net V.A.T. excluded) BGG is entitled to demand an advance payment. If the Customer agrees, the advance payment is due within ten days after the date of the order confirmation.

VI Rights of Use when Reselling Computer Programs

1. The computer programs sold and licenced by BGG as well as the accompanying documentation are protected by copyright.
2. Upon sales and delivery of a computer program BGG grants the customer a simple, non-exclusive, non-sub-licensable, and non-transferable right of use for this program exclusively for his own purposes in his company. The customer is entitled to use the program as a whole or partly on a data processing instrument. The simultaneous use on several data processing instruments is excluded.
3. The user may neither copy the computer program nor the documentation, except for a back-up copy for security purposes.

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4. The customer has no right to change or disassemble the program.
5. Indications about the owner of the rights in the program and the documentation shall not be removed.
6. When reselling the program the right to use and the obligations arising from this right are transferred to the buyer.

VII Warranty of Quality

1. The goods delivered must be examined immediately, latest within 7 days after their receipt by the Customer. BGG has to be notified in writing about any defects of quality immediately latest within 7 days after their discovery.
2. In case of liability the warranty period shall be twenty four months after the delivery of the goods to the Customer.
3. During the warranty period, defects of quality shall at BGG's discretion be either repaired or replaced by BGG free of charge. The Customer has to allow BGG sufficient time and opportunity to remove the defect of quality. BGG is entitled to have third parties carry out the necessary repairs.
4. In case of repair, the goods (instruments in original packaging) at the request of BGG have to be sent to Geretsried by delivery prepaid. After repair the goods shall be returned to the Customer by delivery prepaid. In the event that either repair or replacement should fail twice, the Customer may demand a reduction of the purchase price or cancel the order.
5. Warranty is excluded in the case of defects of quality which are attributable to wear and tear, improper interference of the Customer or a third party or through chemical or other unusual influences.
6. BGG warrants that computer programs have been developed according to the current state of the art, have been carefully checked and substantially conform to the applicable product documentation. The warranty does not include the confirmation that the programs answer the Customer's requirements or are compatible with other programs selected by the Customer.
7. BGG shall not be obligated to carry out any after sales service neither during nor after the warranty period in such cases, that BGG receives inquiries and/or orders from persons, companies, organizations and/or countries that are listed on any national or international official list of

sanctions and embargos. In that case BGG shall not be obligated to return to the sender the product it has received for after sales service.

VIII General Liability

1. BGG's liability – regardless of the legal ground – shall be limited to damages, caused intentionally or grossly negligently by BGG or vicarious agents or BGG's contractors or in case of slight negligence of duties which are substantial for the fulfillment of the purpose of the agreement.
2. In cases of slight negligence, BGG's liability shall be limited to typical damages of comparable businesses of this nature, which were foreseeable at the conclusion of the contract or latest at the commission of the breach of duty. This exclusion does not apply to claims arising from the breach of given guarantees or according to the "Produkt-haftungsgesetz" (German Statute on Product Liability).

IX Jurisdiction and Place of Performance

1. Place of performance is Geretsried
2. Exclusive place of jurisdiction for eventual disputes is Munich.
3. For deliveries within Germany the laws of the Federal Republic of Germany shall apply. For deliveries outside of Germany the United Nations Convention on Contracts of International Sale of Goods shall apply.

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