

General Terms and Conditions

of
BERENDES Metalltechnik GmbH
Bergstraße 63 a
56203 Höhr-Grenzhausen

1. Scope of application

Each delivery and service BERENDES Metalltechnik GmbH carries out within the scope of a contract made with a company (hereinafter referred to as client) is subject to the following terms and conditions. Conditions that conflict with the terms and conditions set out here will not be recognized by BERENDES Metalltechnik GmbH even if the orders are executed without having previously come out and expressly contradicted the conflicting terms and conditions. Differing conditions will only be considered to be valid if laid out in a contract signed by both parties.

2. Quotes and individual contracts

(1) Quotes by BERENDES Metalltechnik GmbH are non-binding unless expressly stated otherwise. BERENDES Metalltechnik GmbH reserves the right to make changes to a submitted offer if that change is not detrimental to the client and the change arises due to technical reasons.

(2) The content and scope of the services to be provided, in particular the task, duration, deadlines, duties of cooperation on the part of the client and remuneration, are determined primarily by the respective individual contract.

(3) Within the framework set by the individual contractual agreements, BERENDES Metalltechnik GmbH determines and is responsible for the way and by whom the individual contract is carried out. The client has no rights of instruction, however the BERENDES Metalltechnik GmbH will always endeavour to take the wishes of the client into account.

3. Obligation to cooperate

(1) The client will ensure that all necessary contributions by the client or its agents be carried out in time and provided free of charge to the BERENDES Metalltechnik GmbH. The client will grant the employees of the BERENDES Metalltechnik GmbH any and all useful support needed to carry out the work for the client.

(2) The client will provide BERENDES Metalltechnik GmbH with required documents and system components free of charge, in particular those documents and components that are necessary for the production and implementation of the subject of the contract, insofar as they are not themselves the subject of the order. BERENDES Metalltechnik GmbH assumes that the system components provided by the client are in a technically flawless and fully functional state. Fault analysis, troubleshooting and delays due to functional defects will be charged according to applicable rates. BERENDES Metalltechnik GmbH will only use the documents and system components provided insofar as these are needed to fulfil the contract.

(3) The client will retain copies of all documents and data carriers handed over to BERENDES Metalltechnik GmbH. BERENDES Metalltechnik GmbH will be free to access these copies free of charge at any time. After fulfilling the contract, BERENDES Metalltechnik GmbH is entitled to destroy the documents received from the client. At the request of the client, BERENDES Metalltechnik GmbH will return the documents.

4. Confidentiality

The client and BERENDES Metalltechnik GmbH mutually commit themselves to complete confidentiality with respect to all information and documents that are expressly designated as confidential

or recognizably not intended for third parties. This obligation extends to all of the client's employees.

5. Liability

(1) BERENDES Metalltechnik GmbH is only liable for damages caused by gross negligence or intent. In case of the breach of essential contractual obligations, it is also liable for slight negligence. The liability in this case is limited to the damage that was reasonably foreseeable at the time the contract was concluded.

(2) The liability of BERENDES Metalltechnik GmbH for delays in the performance of the contract is, in the case of slight negligence, limited to five percent of the contract sum. BERENDES Metalltechnik GmbH is not liable for follow-on damages, such as lost profits. Overall, the liability of BERENDES Metalltechnik GmbH is limited to the amount of the respective order value.

(3) The aforementioned limitations of liability apply to contractual and non-contractual claims. Liability due to mandatory laws, contractual agreements or for personal injury and its consequences remains unaffected.

6. Acceptance

(1) The basis for the acceptance of work performed is the written confirmation of the delivery of the items specified in the contract. A preliminary acceptance is carried out by the client before commissioning starts.

(2) The provision of works and services shall be carried out exclusively on the basis of a specification sheet that is binding for both parties. If no objections are raised within two weeks of the submission of the written order confirmation / specification sheet, the content of the order confirmation / specification sheet is considered to be valid and approved even without the signature of the client and serves as the sole basis for the execution of the order. Changes are only valid in written form and only after they have been countersigned by BERENDES Metalltechnik GmbH.

(3) If, two months after BERENDES Metalltechnik GmbH notifies the client of the readiness for delivery, there has still been no acceptance by the client, or if the acceptance has not been carried out due to a lack of cooperation by the client, then the entire system shall be deemed to be accepted. Upon acceptance, the client acknowledges that the works and services are essentially in accordance with the contract. Should a formal acceptance not be granted by the client, then the handing over of the subject of the order to the client, or, at the very latest, the use of the subject of the contract by the client is automatically deemed to be an acceptance.

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7. Commissioning

(1) Commissioning is defined as all the work carried out at the place of installation of the object of the contract for purposes of testing, proof of performance etc.

(2) The commissioning of the contractual object is calculated separately according to proof of travel, waiting periods, working hours, expenses and material consumption on the basis of the valid current rates. Excluded are only those expenses incurred for the rectification of defects for which BERENDES Metalltechnik GmbH is responsible.

8. Title Retention

(1) BERENDES Metalltechnik GmbH retains ownership of the delivered goods until such time as all present and future claims resulting from the individual contract and the ongoing business relationship (secured claims) have been paid in full.

(2) The goods subject to retention of title may not be pledged to third parties or transferred as collateral before the secured claims have been paid in full. The client must notify BERENDES Metalltechnik GmbH immediately, in writing, if and insofar as third parties access the goods belonging to us.

(3) In the event of breach of contract by the client, in particular in the event of non-payment of the due purchase price, BERENDES Metalltechnik GmbH shall be entitled to withdraw from the contract in accordance with the statutory provisions and to reclaim the goods on the basis of the retention of title and rescission. If the client does not pay the purchase price, BERENDES Metalltechnik GmbH may assert these rights if they have unsuccessfully set a reasonable deadline for payment or if such a deadline is dispensable in accordance with the statutory provisions.

(4) The client is authorized to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following additional provisions apply:

(a) The retention of title extends to the full value of products that result from processing, mixing or combining the products produced by BERENDES Metalltechnik GmbH, whereby BERENDES Metalltechnik GmbH is considered to be the manufacturer. If third parties retain ownership rights after processing, mixing or combining their goods with BERENDES Metalltechnik GmbH goods, then BERENDES Metalltechnik GmbH acquires co-ownership in proportion of the invoice values of the processed, mixed or combined goods. The same applies to the resulting product as to the goods delivered under retention of title.

(b) The customer hereby assigns to us the claims against third parties arising from the resale of the goods or the product as a whole or in the amount of any co-ownership of BERENDES Metalltechnik GmbH in accordance with the preceding paragraph. BERENDES Metalltechnik GmbH accepts the assignment. The duties of the client mentioned in para. (2) also apply with regard to the assigned claims.

(c) Both the customer and BERENDES Metalltechnik GmbH are authorized to collect these claims. BERENDES Metalltechnik GmbH undertakes not to collect any claim as long as the customer meets its payment obligations to BERENDES Metalltechnik GmbH, does not default on payment, does not put in an application for insolvency and there is no other impedence to its ability to pay. Should this, however, be the case, then BERENDES Metalltechnik GmbH may demand that the client disclose the assigned claims and their debtors to BERENDES Metalltechnik GmbH, provide all information necessary for collection, hand over the associated documents and notify the debtors (third parties) of the assignment

(d) If the realizable value of the securities exceeds our claims by more than 10%, BERENDES Metalltechnik GmbH will, at the request of the customer, release securities of its choosing.

9. Delivery time / deadline

(1) BERENDES Metalltechnik GmbH will deliver the designated services within a period of 4 weeks after receipt of a written order and the written order confirmation by BERENDES Metalltechnik GmbH.

(2) If the failure to comply with the deadline for services is demonstrably attributable to impediments for which BERENDES Metalltechnik GmbH is not responsible, the deadline shall be extended accordingly. A demand note puts BERENDES Metalltechnik GmbH in default only if it fulfils the requirements for written form. Should BERENDES Metalltechnik GmbH be in default of delivery, the client must set a reasonable grace period of at least four weeks to perform, unless there is an absolute fixed date or the BERENDES Metalltechnik GmbH has seriously and finally denied fulfilment. The deadline must also be in writing.

10. Warranty

(1) There is a warranty period of 1 (one) year from delivery/acceptance for both the purchase of products as well as for work and services rendered. However, if the product is a structure or an entity which, in accordance with its normal use, has been used as a structure and this use has caused it to be defective, then the warranty period according to the statutory provision is 5 (five) years from delivery. Special legal regulations, especially the Product Liability Act and cases of malice of the seller, remain unaffected by this clause.

(2) The customer must inspect delivered goods immediately upon delivery for any defects or deviations in quantity. The customer must report, in writing, any total or partially defective delivery immediately upon discovery. The notification period for defects that are identifiable through careful examination is a maximum of one week. Other defects are to be reported immediately after their discovery. If the client fails to notify the supplier about the defects in the time allotted, then the goods are considered to be approved.

(3) If operating conditions or maintenance instructions are not adhered to, changes are made to the products or consumables are used which do not correspond to the original specifications, then any warranty is null and void.

(4) For the warranty deadline, No. 9 (2) applies accordingly.

11 Prices / terms of payment

(1) The prices are in Euros ex works Höhr-Grenzhausen plus VAT valid at the time of delivery.

(2) Payment is due net within 10 days of the invoice date.

Invoicing takes place on sale with the delivery, in the case of services 60% is due with delivery, the further 40% on acceptance.

12. Court of jurisdiction, choice of law, set-off, assignment

(1) Exclusive place of jurisdiction for all pending legal disputes is Montabaur. However, BERENDES Metalltechnik GmbH is also entitled to sue the client at its general place of jurisdiction.

(2) For contractual and non-contractual claims, only German law applies, excluding the UN Sales Convention (CISG) and the German conflict of laws provisions.

(3) Offsetting against counterclaims is only permitted if BERENDES Metalltechnik GmbH recognizes the counterclaim or the claim has been legally established. Rights of retention are only granted to the client if and to the extent that they are based on the same contractual relationship. The assignment of a claim against BERENDES Metalltechnik GmbH is effective only with written consent.

(4) Should one or more provisions of these General Terms and Conditions be wholly or partially invalid, this shall not affect the validity of the remaining provisions.