

## I. General Regulations

- a. The present GSDC apply for the extent of deliveries or performances (in the following: deliveries). However, general trading conditions of the orderer are only valid in so far as BlueKit Factory (in the following: BKF) has explicitly agreed to it in writing.
- b. BKF reserves all rights in their exploitation rights on copyright and right of ownership without restriction on cost estimates, drawings and other data (in the following: data). The data must not be made admissible to a third party without previous approval by BKF and have to be instantly returned on demand, if the order is not given to BKF.
- c. Partial deliveries are permissible, as far as this is reasonable for the orderer.
- d. We are bound by all our offers for three months. A privity of contract is established on receipt of the offer, countersigned by the orderer, at our place.
- e. We reserve the right to manufacturing required deviations from samples or earlier deliveries for improvement of the product.
- f. Redeliveries of products will be accepted only with previous notice. Redeliveries must be carried out free of charge, and with giving the BKF order number. Repayment is made with 10% reduction as charge for checking and handling with reference to the net value of the goods, however with a minimum handling charge of 25,-€.
- g. Special manufacture to customer's specification, respectively manufacture which is not in its initial and intact packaging anymore, is excluded from exchange or refund.

## II. Prices and Terms of Payment

- a. Prices are ex works plus the respective legal sales tax, which is valid.
- b. Payments have to be made to BKF net, within 30 days after the date of the creation of the invoice net.
- c. For every first order by an orderer, 50% of the invoice amount are to be paid to BKF net before the delivery.
- d. The orderer can only compensate such debts, which are undisputed or established having the force of law.

## III. Title Retention

- a. The items of delivery (reservation goods) remain property of BKF until fulfilment of all due claims, resulting from the business connection, as regards the orderer. On request of the orderer, BKF will release an appropriate part of security rights, so far as the value of all security rights, which BKF is entitled to, exceed the amount of all secured claims by more than 20 %.
- b. While the title retention is in existence, pawning or transfer of ownership as security on a debt is forbidden to the orderer, and resale is only allowed to resellers in the usual run of business and only on the condition, that the reseller will receive payment from the customer or will make the reservation, that the property will not pass to the customer until the former has fulfilled his liability to pay.
- c. The orderer must instantly inform BKF in case of attachment, confiscations or other orders or interferences of third parties.
- d. In case of a breach of duty of the orderer, especially in case of delay in payment, BKF is entitled to rescission and taking back, and the orderer is bound for handing back. No rescission required of BKF by the taking back respectively enforcement of title retention. These actions or pawning of reservation goods by BKF is no rescission of contract, unless this had been expressly declared by BKF.

## IV. Terms of Delivery, Delay

- a. Observance of terms of deliveries require receipt of all data, necessary approvals and releases, especially of plans, to be delivered by the orderer in due time, as well as observance of agreed payment conditions and other duties by the orderer. Terms will be appropriately extended, if these preconditions are not met in due time. This is not valid, if BKF is responsible for the delay.
- b. If nonobservance of terms is due to superior force, for example mobilization, war, uprising or similar events like strike or lockout, the terms will be appropriately extended. The same is also valid, if above mentioned events, occur with a supplier of BKF.
- c. If BKF falls behind with deliveries, the orderer can claim compensation of 0.5% each for every completed week, however, altogether up to a maximum of 5 % of the amount for that part of deliveries, which could not be taken in appropriate use due to the delay, provided that the orderer can credibly prove, that damage has been caused by the delay.
- d. Claims for damages of the orderer because of a delay of delivery, which exceeds the limits mentioned under "c", are excluded in all cases. This is not valid, if liability is mandatory, in cases of intent, gross fault, or due to injury of life, bodily injury or injury of health. A change of the burden of proof to the disadvantage of the orderer is not involved with this. The orderer can only withdraw from the contract within the limit of legal regulations, if BKF is responsible for the delay.
- e. On demand of BKF, the orderer is bound to explain within a period of three completed weeks, whether he wants to withdraw from the contract because of the delay of delivery and/or will demand compensation instead of performance or whether he will insist on delivery.
- f. If dispatch or delivery, by request of the orderer, is delayed by more than one month after the ready for dispatch advice, the orderer can be charged for every started month with a storage charge of 0,5% of the amount of the items of deliveries, however with a maximum of 5 % altogether. BKF is free to prove higher or lower costs of storage.

## V. Passing of Risk

- a. The risk will be passed to the orderer, even in case of freight free delivery, as follows:
  - i. In case of deliveries that have been collected by the orderer at BKF's shipping department.
- b. Deliveries from BKF to the orderer, which are a part of the performance, are insured against common transport risks.
- c. If dispatch, delivery, is delayed due to reasons, for which the orderer is responsible or the orderer is in default of acceptance for other reasons, the risk will be passed to the orderer.

## VI. Acceptance

The orderer is not allowed to refuse acceptance because of minor defects.

## VII. Defects of quality

BKF is liable for defects of quality as follows:

- a. All those parts or performances, which show a defect of quality within the limitation period, regardless of the operating period, must be repaired free of charge, newly delivered or supplied, optional with BKF, provided that its cause has been already at the time of passing of risk.
- b. Claims for defects of quality are subject to a period of limitation of 24 months. This is not valid, if the law stipulates longer periods according to §§ 438 par. 1 no 2 (constructions and things for constructions), 479 par. 1 (claims of recourse) and 634a par. 1 no 2 (construction defects) BGB (German civil law).
- c. If the orderer detects a product defects or a lack of quality, within two days after identification he should instablish in writing a claim to BKF.
- d. In case of complaints about defective goods, the orderer is allowed to hold back payment to an extent, which is in due proportion to the defects of quality occurred. The orderer can hold back payments only, if a complaint is made, which has been provided within the period mentioned in "c" and about whose justification no doubt can exist. If the complaint has been unjustly effected, BKF is entitled to demand refund from the orderer for costs incurred.
- e. BKF must always get first the opportunity of subsequent fulfilment within a reasonable period.
- f. In case of a failure of subsequent fulfilment, the orderer can cancel the contract or reduce payment without prejudice to possible compensation claims as per art. X.
- g. Claims because of defects do not exist in case of only insignificant difference from the agreed quality, in case of only minor impairment of usability, in case of fair wear and tear or damages, which develop after the passing of risk, owing to incorrect or negligent treatment, excessive stress, unsuited operating material, insufficient building activities, unsuitable building ground (e.g. windows or walls) or because of special outer influences, which are not presupposed in the contract, as well as in case of software errors, which are not reproducible. If the orderer or a third party has carried out improper modifications or repair work, claims of defects for these or for results incurred from this do not exist either.

## VIII. Industrial Property Rights and Proprietary Rights; Defective Titles

- a. If not agreed differently, BKF is obliged to bring deliveries merely in the land of the place of delivery, free of industrial property rights and proprietary rights of third parties (in the following: property rights). BKF is liable with regard to the orderer within the period indicated in art. VII no "b", provided that a third party raises justified claims against the orderer because of violation of property rights, by contractually used deliveries, brought by BKF as follows:
  - i. BKF will bring about, according to their choice and at their expenses, either a usufructuary right for the relevant deliveries or change them in such a way, that property rights are not violated or exchange them. If this is not possible for BKF at appropriate conditions, the orderer is entitled to the legal right of rescission or the right of reduction.
  - ii. BKF's obligation of compensation goes by Art. X.
  - iii. The obligations of BKF, as mentioned above, will only exist in so far as the orderer will immediately notify BKF in writing about claims asserted by a third party and will not acknowledge a violation and all measures of defence and negotiations for a settlement are reserved to BKF. If the orderer stops the use of the delivery for reasons of mitigation of damage or other important reasons, he is obliged to point out to the third party, that no acknowledgement is involved of a violation of property rights with the stoppage of use.
- b. Claims of the orderer are excluded as far as he is responsible for the violation of property right.
- c. Claims of the orderer are excluded as well, if the violation of property right is caused by special specifications of the orderer, by an application not to be foreseen by BKF or because the delivery is used differently by the orderer, or together with products not delivered by BKF.
- d. Regulated claims of the orderer in no "a i" are valid in case of violation of property rights, otherwise the regulations of art. VII no "d and e" are correspondingly valid.
- e. Regulations of art. VII are correspondingly valid in case of other defective titles.
- f. Further or other claims of the orderer because of a defective title, as regulated in this art. VIII, against BKF and their vicarious agents are excluded.

## IX. Impossibility, Adapting of Contract

- a. As far as delivery is impossible, the orderer is entitled to demand compensation, unless BKF is not responsible for the impossibility. However, the orderer's claim of compensation is limited to 10 % of the value of that part of delivery, which cannot be taken in appropriate use due to the impossibility. This limitation is not valid, if liability is mandatory in cases of intent, gross fault or due to injury of life, bodily injury or injury of health. A change of the burden of proof to the disadvantage of the orderer is not involved in this. The orderer's right to withdraw from the contract is not affected.
- b. Provided that unforeseen events, in the sense of art. IV no "b", will considerably change the economic importance of the content of delivery or if it will have considerably effect on the factory of BKF, the contract will be appropriately adapted observing good faith in business. BKF has the right to withdraw from the contract, if this is not economical justifiable. If BKF wants to make use of this right of rescission, BKF must immediately inform the orderer, after having recognized the consequences of the event, also in case that first has been agreed upon an extension of delivery time with the orderer.

## X. Other Compensation Claims

- a. Further or other claims of the orderer against BKF and their vicarious agents because of a product lack as explained in the art. VIII, are excluded.
- b. Compensation claims and claims of compensation of expenses (in the following: compensation claims) of the orderer are excluded, unimportant for which legal reason, especially due to violation of duties from contractual obligations and from tort.
- c. This is not valid, if liability is mandatory e.g. according to product liability, in cases of intent, of gross fault, because of injury of life, bodily injury or injury of health, as well as of violation of essential contractual duties. However, the compensation claim for violation of essential contractual duties is limited to contract typical damage, which can be foreseen, as far as the reason is not intent or gross fault or that liability is accepted because of injury of life, bodily injury or injury of health. A change of the burden of proof to the disadvantage of the orderer is not involved with the regulation mentioned above.
- d. As far as the orderer is entitled to compensation claims according to this art. X, will these expire after expiry of the period of limitation like the one, which is valid for claims for defects of quality according to art. VII no "b"

## XI. Place of Jurisdiction and Applicable Law

- a. The exclusive place of jurisdiction is the address of BKF, if the orderer is a merchant, in case of all disputes indirect or direct, which will arise from the privity of contract. However, BKF is entitled as well to institute an action at the address of the orderer.
- b. German substantive law is valid for legal relations in connection with this contract to the exclusion of the agreement of the United Nations about contracts about the international merchandise purchases (CISG).

## XII. Obligation of the Contract

Also in case of legal invalidity of individual regulations remains the contract binding in its other parts. This is not valid, if sticking to the contract would be an unreasonable hardship for one of the parties.

-As of September 2014-