

**BD A/S  
("BD")  
Herstedøstervej 27-29, 2620, Albertslund, Denmark**

**GENERAL CONDITIONS OF SALE ("Conditions")**

**1. Applicability**

- 1.1 These Conditions do not apply to computer software included in the delivery to the extent special terms are applicable to such computer software.

**2. Purchase orders**

- 2.1 A purchase order shall be deemed to be an offer by the Buyer to purchase Products pursuant to these Conditions. A purchase order becomes binding on BD only provided it corresponds to a valid written offer or is accepted by BD through a written order confirmation, or through the delivery of the ordered Products.
- 2.2 All purchase orders must identify the country of final destination.
- 2.3 Any oral statement, addition or amendment to these Conditions and/or the documents of any Contract concluded hereunder shall only become valid if confirmed by BD in writing.
- 2.4 All purchase orders are subject to the approval of BD, but can be accepted implicitly by executing the delivery. The prices of BD include the standard packaging cost and standard order costs when the total order value exceeds the amount of 2500 (two thousand five hundred) DKK, if not, a minimum amount of 350 (three hundred fifty) DKK will be charged for the carrier costs and administration costs. Shipping charges for all speed deliveries will also be added.

**3. Drawings and Technical Descriptions**

- 3.1 All statements in informational- or marketing materials are approximate and shall not become

part of the Contract unless explicitly included through written agreement between the Parties.

- 3.2 Drawings and technical descriptions remain the property of BD and must not be used by the Buyer for his own purposes or be revealed to third parties.

**4. Secrecy**

- 4.1 The Buyer agrees to keep secret and treat as confidential such technical and commercial information as he knows BD wishes to keep secret and shall not use such information for other purposes than such for which it was received. The Buyer shall take suitable measures to protect such information from being disclosed. This obligation of secrecy and restriction of use shall remain valid after any Contract concluded hereunder is completed.

**5. Delivery Tests**

- 5.1 Delivery tests may be performed subject to agreement between the Parties. Failing an agreement between the Parties on how such tests shall be conducted the rules generally applied within the business shall be used. The Buyer shall be allowed opportunity to be present during the tests.
- 5.2 The test record shall constitute conclusive evidence regarding the facts that are to be established through the delivery tests.
- 5.3 If the Products are not contractual, then BD shall without delay make adjustments to the Products and, on request by the Buyer, conduct a new delivery test.

## **6. Delivery Terms**

- 6.1 Unless otherwise agreed in writing delivery shall be DAP (Incoterms 2010), the stated location of the Buyer.
- 6.2 On BD's request the Buyer shall furnish customs clearance and any other documentation pertinent to the transaction.

### **Time of Delivery**

- 6.3 If required licenses or permits, agreed advance payments, technical data or instructions have not been provided to BD in time, or if delivery is prevented or complicated due to actions or omissions by the Buyer, BD shall have the right to postpone the time of delivery correspondingly.
- 6.4 Times or dates quoted by BD for delivery of Products are intended as estimates only. BD shall not be liable for any delay in delivery due to circumstances beyond the control of BD including shortage of raw materials, manufacturing disturbances or disruptions in means of transportation.
- 6.5 The Buyer shall be entitled to repudiate the Contract in respect of such Products or parts of Products that are delayed, provided that they are not delivered within reasonable time after the Buyer's written request. If Products or parts of Products already delivered cannot be used independently, such Products or parts of Products may also be comprised by such repudiation.
- 6.6 The above stated remedies are the only remedies that shall be available to the Buyer in case of delay of delivery.
- 6.7 If the Buyer does not take delivery of the Products he shall still be obliged to pay in accordance with the Contract.
- 6.8 If the Buyer, in spite of BD's request, does not take delivery of the Products within reasonable time then BD shall be entitled to repudiate the Contract in respect of such yet not delivered Products or parts of Products. The Buyer shall bear the risk of destruction of the Products and shall compensate BD for handling-, storage-

and insurance- costs if the Buyer has not taken delivery of the Products on time.

- 6.9 If BD should repudiate the Contract due to the failure of the Buyer to take delivery of the Products on time, then the Buyer shall compensate any cost on BD's part that BD cannot avoid or compensate through a sale to someone else.

## **7. Payment**

- 7.1 Failing an agreement to the contrary, invoices shall be paid within thirty (30) days from the invoice date.
- 7.2 Interest on late payment will be charged in accordance with the rate stated on the invoice or according to law. Reminders, collection letters and debt collection fees will be charged according to law.
- 7.3 If payment of invoices is late by more than ninety (90) days BD shall be entitled to repudiate the Contract and claim compensation according to the provisions in section 6.9 above.
- 7.4 In no event shall the Buyer have the right to retain or set off payments unless BD consented thereto in writing, or a final and binding court decision or arbitration award confirms Buyer's claim.

## **8. Price Adjustment**

- 8.1 BD shall be entitled to change the price of Products ordered but not yet delivered provided there is a significant change in currency exchange rates, taxes or other public charges that will affect BD's cost to purchase or manufacture the Products.

## **9. Retention of Title and Passing of Risk**

- 9.1 All Products remain the property of BD until paid in full.
- 9.2 Risk in the Products shall pass to the Buyer on delivery.

## **10. Termination**

10.1 Any Contract governed by these Conditions may be terminated by BD with immediate effect if:

- (i) the Buyer fails to pay at due dates, or
- (ii) the Buyer is in material breach of any other term or condition of these Conditions or the related Contract and has not remedied such breach within fifteen (15) days of having been notified of such breach, or
- (iii) the Buyer shall be or become bankrupt or insolvent or if there are instituted - by or against it - proceedings in bankruptcy, under insolvency laws or for its reorganization, receivership, liquidation or dissolution.

## **11. Warranty**

11.1 BD warrants that delivered Products are free from defects as regards design, material and workmanship. BD's responsibility comprises only defects that become apparent within one (1) year from delivery of the Product.

11.2 All Product deliveries shall be in compliance with applicable specifications for the period of their respective shelf life.

11.3 In case of Products being instruments the warranty shall be twelve (12) months from the installation date at the ultimate customer's facility but in no event exceeding eighteen (18) months from delivery to the Buyer. However, any instrument warranty shall only be given on the condition that the respective warranty and installation certificate of BD is properly completed by the Buyer,

11.4 Any defects of Products which would be apparent on reasonable inspection must be notified to BD in writing within 72 (seventy-two) hours of reception of the Products by the Buyer, failing which, the Products shall irrevocably be deemed accepted by the Buyer.

11.5 BD shall without delay and at its own expense remedy any defective Product. The Buyer shall at its own expense return a defective Product or part of a Product to BD provided such return has been authorised by BD.

11.6 By returning to the Buyer such repaired or replaced part of a Product BD shall be considered to have fulfilled its obligation under this provision in respect of a defective part.

11.7 BD shall be responsible for such repaired or replaced part in the same way as for the original Product during a period of three (3) months.

11.8 Instead of remedying a defective Product BD may choose to repay the purchase sum, in which case the Buyer shall return the Product in an essentially unchanged condition. If this is not possible, the Buyer shall compensate BD for what is not possible to return or for any change in condition and for the Buyers earnings and benefit from the Product.

11.9 Defective parts that have been replaced shall be the property of BD.

11.10 Provided BD has failed to remedy the defect within reasonable time, the Buyer shall be entitled to make necessary repairs or to have a new Product manufactured at BD's expense provided he acts diligently, or if the defect is of significant importance to the Buyer and BD was aware or should have been aware thereof, repudiate the Contract in respect of the Product or a part of the Product. In this situation amounts calculated under the provision in subsection 11.8 above shall be set off.

11.11 BD's responsibility to remedy defects and to compensate the Buyer under this section is limited to a sum corresponding to the purchase price of the Product or of the defective part of the Product.

11.12 BD's responsibility does not comprise defects that are attributable to materials provided by the Buyer or to technical solutions prescribed by the Buyer and is limited to defects that appear under expected working conditions and proper use. It does not comprise defects that are caused by insufficient maintenance or by installation work, maintenance, changes or repairs performed by the Buyer. Neither does it comprise normal wear and tear or deterioration.

11.13 Any warranty claim shall be in writing, using BD's applicable complaint form, and identify the defects and their presumable cause.

## **12. Installation Work**

12.1 Installation work is included in BD's obligations only after separate agreement.

## **13. Product Liability**

13.1 BD will not be responsible for damage caused by the Products to the Buyers property or to other products with which Products have been assembled unless proven negligent. BD's liability is limited as set out under section 15 below.

## **14. Force majeure**

14.1 If fulfilment of this agreement is prevented or obstructed Due to any circumstance - such as for instance war, intervention by a public authority, civil disturbances, limitations to the supply of energy, labour market disturbances, prohibitions, restrictions, failing permissions, accidents, unfavourable transportation- or weather conditions or failing deliveries from sub contractors – which could not have been foreseen by a Party at the time of entering into this Agreement and which consequences he could not avoid or overcome, he shall be correspondingly released from his obligations to deliver or take delivery as agreed, provided that the Party so affected without delay notifies the other Party in writing.

14.2 If fulfilment of the Agreement is prevented due to such circumstances as set out above for a period of at least six (6) months, each Party shall have the right to repudiate the Contract.

## **15. Limitation of Liability to Pay Damages**

15.1 The total amount that BD can be made responsible to pay to the Buyer in respect of the purchase shall be limited to a sum corresponding to the purchase price.

15.2 Notwithstanding mandatory provisions of any applicable law, BD shall neither be liable for indirect or consequential damages nor for any other damages unless the latter were caused by BD's gross negligence or intentionally.

## **16. Export- and Import Licenses, ban on re-exportation**

16.1 To the extent necessary, the Buyer agrees to contribute

- a) to obtain export- or import license for the purchased Product and in connection herewith provide, in all respects, correct and complete information.
- b) to obtain necessary permissions and follow applicable regulations in respect of or re-export of the Product or any product of which the purchased Product totally or partially forms part.
- c) to that a purchaser becomes bound by the same conditions as set out above in b).

16.2 Any agreement referring to these Conditions in conflict with US anti-boycott legislation or any other applicable anti-boycott legislation shall be resolved first by doing everything necessary to conform with the applicable anti-boycott provisions, including but not limited to, amending such agreement and, if that does not resolve the conflict, the violating agreement shall be null and void, as if it had never came into existence

## **17. Applicable Law and Jurisdiction**

17.1 These Conditions and any Contract concluded hereunder shall be governed and construed in accordance with the material law of the state in which the selling BD unit is domiciled except for its choice of law principles and the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 and the exclusive venue of any dispute relating to these Conditions or Contracts concluded hereunder shall be for

- a) disputes that concern matters below fifty thousand (50,000) EUR, the ordinary courts that have venue according to applicable international conventions.
- b) all other disputes; an arbitration tribunal composed in accordance with the rules of the state in which the selling BD unit is domiciled and having its seat in the capital of that state.