

GENERAL BUSINESS TERMS

§ 1 General, Scope of Applicability

1. The goods, services and offers by the Andreas Bechem e.K. (hereinafter referred to as BECHEM) will be exclusively based on these terms of business.

They apply to all present and future business relations even if they are not explicitly agreed on again. Upon placement of the order, the Purchaser declares that the terms of business are known to him and that he agrees to them.

2. The General Business Terms will apply exclusively with regard to entrepreneurs. Such are natural or legal entities or partnerships with legal capacity with whom business relations are entered into who act on the basis of exercise of a commercial activity or self-employment.

3. Deviating, conflicting or supplementary general terms of business will not become part of the contract even where they are acknowledged and even where BECHEM does not object to these terms of business, unless their validity is explicitly confirmed in writing.

§ 2 Offer and Conclusion of the Contract

1. Unless otherwise explicitly specified, the offers by BECHEM are non-binding and subject to change.

The documents belonging to the offers such as illustrations, drawings and data on weight, measurements, color and materials are only approximate unless explicitly specified as official.

BECHEM reserves property rights and copyright to cost estimates, drawings and other documents; they may not be made accessible to third parties.

2. With the order the Purchaser bindingly declares that he intends to purchase the ordered goods.
3. BECHEM has the right to accept the contractual offer in the order within 2 weeks after receipt. Acceptance can be declared either in writing or by delivery of the goods to the Purchaser.
Information on goods and services provided by BECHEM will only become part of the contract where it is specified in a binding offer, written order confirmation or written contract. Information and offers refer to normal standard quality and design. General data on quality and design are only to be regarded as median values. Ancillary agreements and amendments will require written confirmation by BECHEM.
4. Any deviations between an invoice or delivery notice and the actual goods delivered must be reported by the Purchaser immediately in writing, by the latest 3 days after receipt of the goods.
5. Where the Purchaser orders the goods electronically, we will immediately confirm receipt of the order. The order confirmation will not yet be equivalent to acceptance of the order. The order confirmation can be combined with the declaration of acceptance.
6. Conclusion of the contract will be subject to the correct and timely supply of products to the suppliers of BECHEM. This will only apply where BECHEM is not responsible for non-supply, in particular in the case of conclusion of a congruent covering transaction with BECHEM's supplier.
7. Where the Purchaser orders the goods electronically, the text of the contract will be saved by us and sent to the Purchaser upon request per e-mail in addition to the present General Business Terms. (Note: This obligation will apply only where there is actual storage of the text).

§ 3 Prices

1. The price list applicable on the date of the delivery will apply to products sold by BECHEM.
2. The prices will apply ex warehouse, excluding packaging, transport, insurance. Shipping costs and insurance costs pursuant to §5 of the General Business Terms will be borne by the Client unless there is another explicit written agreement.
3. For orders less than € 100,-- (excluding replacement and make-up deliveries), handling costs of € 10,-- will be charged in each case.
4. Additional value added tax at the respective statutory rate must be paid on all prices. BECHEM-price lists do not constitute a contractual offer.

§ 4 Delivery Terms and Passing of Risk

1. Delivery deadlines which are officially or unofficially agreed on must be in writing.
2. The delivery deadline will commence with the sending of the order confirmation but not before the provision of the documents and permits to be submitted by the orderer and before approvals and receipt of an agreed installment.
3. The agreed delivery deadline is deemed to have been observed where the consignments have left the warehouse or where they are ready for dispatch within the delivery deadline and the Purchaser has been informed accordingly.
4. The delivery duty ends where delivery is wholly or partially infeasible due to force majeure or other unforeseeable events. This also applies where these circumstances beset one of BECHEM's suppliers. In these cases BECHEM

can either rescind the contract or postpone delivery for the period of prevention plus an adequate run-up period. In the latter case the Purchaser will not have the right to recall orders, reject partial orders or make damage compensation claims of any kind. BECHEM can only appeal to the said circumstances where it has immediately informed the Purchaser.

5. The risk of accidental destruction or accidental deterioration of the goods will pass to the Purchaser upon the handover of the goods, in the case of shipment purchase, upon delivery of the item to the shipping agent, freight carrier or person or institution commissioned with the shipment of the goods.
6. Where shipment becomes unviable not due to the fault of BECHEM, the risk will pass to the Purchaser upon notification of readiness for dispatch.
7. Delayed acceptance of the goods will not change the fact that they were handed over.
8. BECHEM will decide upon the mode of shipping unless the Client specifies a particular type of shipment.

§ 5 Insurance

1. BECHEM will take out insurance against loss, theft or other transport damage at the costs of the Purchaser only upon separate agreement with the Purchaser.
2. The Purchaser will have the duty to take the necessary measures according to local law for adjustment of the damage incurred during transport.

§ 6 Payment

1. Invoices by BECHEM are payable within 10 days as from the date of the invoice with 2% discount or within 30 days cash net. The prerequisite for concession of discount is that the Purchaser is not in arrears with fulfillment of other obligations. An exception to this are invoices for services such as installations, etc.

2. A discount on credited amounts is not admissible.
3. Where payment reminders become necessary after expiry of the payment deadline, the costs thereby incurred will be charged to the Purchaser.
4. From the due date on, BECHEM has the right to charge default interest to the amount of 8% above the respective valid discount rate of the European Central Bank.
5. In the case of delayed payment, all other outstanding invoices will become due for payment immediately, without regard to their actual due date.
6. BECHEM has the right to charge payments to the Purchaser's longer-standing debts, notwithstanding other terms by the Purchaser. Where interest and costs have already been incurred, BECHEM will have the right to charge the payment to the costs first, then to interest and last to the main payment. BECHEM will inform the Purchaser regarding the way the charges were made.
7. To the extent that the Purchaser fails to comply with his payment duties, in particular where he fails to cash a check or bill of exchange and ceases payment, or BECHEM becomes aware of unfavorable circumstances regarding the Purchaser's financial situation or creditworthiness, BECHEM will have the right to demand advance payment or payment of security with regard to all other contracts. Where the Purchaser fails to pay the purchase price or security within two weeks after request for payment by BECHEM, the latter can rescind the contract. BECHEM will then be entitled to damage compensation to the amount of 25% of the agreed purchase price. The Purchaser will have the right to prove lesser damage.
8. The Purchaser will only have the right to set-off where his counterclaims are uncontested or res judicata.
The Purchaser can only exercise a right of retention where his counterclaim is based on the same contract.

§ 7 Retention of Title

1. The goods supplied by BECHEM will remain the property of BECHEM until payment of the entire obligation arising from the contract, in particular until the balancing of a current account and in the case of payment by check or bill of exchange until they have successfully been cashed.
2. In the case of breach of contract by the Purchaser, in particular in the case of delayed payment, BECHEM will have the right to take back the delivery item, the Purchaser is obligated to return the item. In the case of processing or refinement of the goods by the Purchaser or combination or mixing with alien items, BECHEM's retention of title will also comprise the new items or the claims arising from them. In this regard, BECHEM is regarded as the manufacturer and will obtain title to them in accordance with §§ 947, 948, 950 BGB. Where the delivery item is processed with other items not belonging to BECHEM, BECHEM will acquire a share in the new item in proportion to the invoice total of the goods subject to the retention of title to the other processed items at the time of the processing.
3. Until complete payment of all claims, the goods may not be pledged, assigned as security or otherwise be charged with third party rights. BECHEM must be informed of such third party interventions immediately per registered letter.
4. The Purchaser may only resell the delivered goods-irregardless of whether they are unprocessed, processed or combined- within the scope of proper business, as long as he is not in arrears.
5. The claims he is entitled to with regard to the goods from the resale or other legal ground (including all balance claims from the current account) are already herewith being assigned by the Purchaser to BECHEM as a matter of precaution. Where the Purchaser fails to comply with his duty of payment in this case, BECHEM will have the right to report this to the customers of the Purchaser and demand payment to BECHEM. In this case, the Purchaser is obligated to immediately provide all proofs, documents and information necessary for assertion of this claim.

6. BECHEM revocably authorizes the Purchaser to collect the claims assigned to BECHEM for his account in his own name. This collection authorization can only be revoked where the Purchaser fails to comply properly with his payment duties.
7. Consent to re-sale will however not extend to sale to a third party who makes the assignment of the claims owed by him dependent on his approval.
8. BECHEM will be obligated to release the securities it is entitled to at the Purchaser's request to the extent that they are permanently no longer required for securing of the claim, in particular where they consistently exceed the amount of the claim to be secured by more than 20 %.

§ 8 Guarantee

1. The guarantee will be limited to rectification or replacement consignment according to BECHEM's choice.
2. Where make-up performance is unsuccessful, the Purchaser can essentially opt for reduction of the remuneration or rescission of the contract.
In the case of merely a minor breach of contract, in particular in the case of only minor defects, the Purchaser will not have a right of rescission however. Replaced goods will become the property of BECHEM.
3. Where the Purchaser opts for rescission after an unsuccessful make-up performance due to a legal or material defect, he will not have a claim to damage compensation due to the defect.

Where the Purchaser opts for damage compensation after unsuccessful make-up performance, the goods will remain with the Purchaser where this is reasonable. Damage compensation is limited to the difference between the purchase price and value of the defective item.

This will not apply where BECHEM willfully causes the breach of contract.

4. Visible defects must be reported in writing within a period of 8 days as from receipt of the goods; otherwise assertion of the guarantee claim will not be possible.
The timely sending of the notification will be sufficient for compliance with the deadline.
The Purchaser will bear the full burden of proof for all claim requirements, in particular for the defect itself, the time of detection of the defect and for the timeliness of the complaint.
5. The guarantee period is 1 year as from delivery or readiness for dispatch of the goods.
In the case of used products, the guarantee is excluded.
This will not apply where the Purchaser did not report the defect in time (Item 4 of this provision).
6. Only the manufacturer's product specifications will be regarded as agreed on for the features of the goods. Public comments, praise or advertisement by the manufacturer will not constitute contractually stipulated features of the goods.
7. Where the Purchaser receives faulty processing instructions, BECHEM will only be obligated to deliver flawless processing instructions and only where the flaw in the processing instructions impairs the proper processing.
8. The Purchaser will not receive any guarantees from BECHEM in the legal sense.
Manufacturer guarantees will remain unaffected.
9. No guarantee will be assumed for damage incurred due to the following reasons:
inappropriate or improper use, defective processing by the Purchaser or third parties, natural abrasion, faulty or negligent treatment, inappropriate means of operation, chemical, electrochemical or electrical influences, insofar as they are not due to BECHEM's fault.
Certain differences in color of the material will not constitute a reduction of quality.
Moreover, BECHEM will not assume any guarantee for certain color changes of the material through further processing.

10. The Purchaser must concede BECHEM the necessary time and opportunity for all improvements and replacement consignments deemed necessary on the basis of fair judgement in agreement with BECHEM.
11. Alteration or rectification work which was improperly taken on by the Purchaser or third party without the prior consent of BECHEM excludes liability and guarantee.

§ 9 Liability

1. Damage compensation claim are independent of the nature of the breach of duty, including inadmissible actions, unless there is a case of willfull or gross negligent acts.
2. In the case of breach of cardinal contractual duties, BECHEM will be liable for every case of negligence, but only up to the amount of foreseeable damage. Claims to lost profit, saved expenses, from third party damage compensation claims and to other direct and consequential damage cannot be made unless a feature guaranteed by BECHEM precisely aims at insuring the Purchaser against such damage.
3. The liability limitations and exclusions in paragraphs 1 and 2 will not apply to claims which arose on the basis of deceitful conduct by BECHEM and in the case of liability for guaranteed features, for claims according to the Product Liability Act and damage from injury to life, limb or health.
4. To the extent that BECHEM's liability is excluded or limited, this will also apply to employees, representatives and vicarious agents of the seller.
5. Any damage compensation claims will expire within one year after handover or readiness of dispatch for the goods. This will not apply where BECHEM can be accused of fraudulent intent.

§ 10 Return

1. With the exception of the legitimate complaints specified under Item 8, goods may only be sent back with the prior consent of BECHEM. The invoice number and invoice date must be quoted.
2. Where BECHEM concedes credit, a discount of at least 5% of the sales value, but at least € 40,-- and value added tax at the statutory rate will be deducted, regardless of the condition of the goods (new, originally packaged, used). The Purchaser will have the possibility of proving that reduction of value or expenses were not incurred to this amount.
3. Return of the goods will not constitute rescission but performance in lieu of fulfillment by the Purchaser within the scope of the purchase agreement.
4. BECHEM will not deliver any goods on a trial basis unless this was agreed on in writing.

§ 11 Data Protection

1. BECHEM has the right to store and process data on the Purchaser acquired within the context of the business relationship, regardless of whether they originate from the Purchaser or from a third party, in compliance with the Federal Data Protection Act.

§ 12 Place of Performance, Jurisdiction, Partial Invalidity

1. The laws of the Federal Republic of Germany will exclusively apply to the present business terms and the entire legal relations between BECHEM and the business partners. The UN Sales Convention will not apply in any way.
2. The place of performance and jurisdiction in the case of contracts with registered businessmen, legal entities in public law or other estates in public law is BECHEM's domicile for all disputes arising from the contract.

3. The same shall apply where the contractual partner moves his place of residence or habitual abode abroad after conclusion of the contract or where his place or residence or habitual abode is not known.
4. Should individual terms of the present contract including the present general terms of business be or become wholly or partially invalid, this will not affect the validity of the remaining terms.