

General Terms and Conditions

General terms of business and delivery of

Befort Wetzlar OD GmbH, Braunfelser Str. 26-30, 35578 Wetzlar (hereinafter referred to as "Befort") for the delivery of products and provision of services to enterprises, legal persons or special assets under public law.

1. General

1.1 All deliveries and services are exclusively subject to the following General Terms and Conditions (Ts&Cs). These Ts&Cs are a component of all concluded agreements and also apply to all future business dealings, even if the applicability of these Ts&Cs is not expressly agreed. Befort, hereby, expressly objects to the applicability of the client's terms of business.

1.2 Terms of business to the contrary or diverging confirmations of the client are not binding on Befort, even if Befort did not expressly object to those terms of business. Any terms of business to the contrary or diverging confirmations of the client require Befort's express written acknowledgment, in any case, in the written form required by law.

1.3 All supplements, amendments or side agreements require Befort's written confirmation, in any case, to be effective. This also applies to the cancellation of the written form requirement.

1.4 In the case of conflicts between agreements, the specific order documents or agreement documents, including their exhibits, take priority over the provisions in these Ts&Cs.

2. Offer / Prices and Conclusion of Agreement

2.1 Befort's offers are non-binding and without any obligation. In general, Befort considers prices listed in an offer to be binding for a period of up to eight (8) weeks on a voluntary basis. This does, however, not create a claim to these prices. The same applies to cost estimates. All documents and materials associated with an offer, such as illustrations, drawings, dimensions and weights are approximate descriptions, unless these documents or materials are expressly designated as binding by Befort. Characteristics of our samples are not guaranteed characteristics, unless agreed otherwise.

2.2 An agreement between Befort and the client is effected at such point Befort receives an order sent by the client.

2.3 Befort may apply modifications to the goods' packaging and form, if these modifications are not fundamental in nature, do not significantly restrict the contractually agreed purpose and these modifications are reasonable to the client considering the interests of both parties.

2.4 The prices listed in an offer only apply to the respective order quantity. If the client orders a smaller quantity than offered, Befort reserves the right to increase the unit price and adjust the price of the ordered quantity.

2.5 All prices are ex works in Wetzlar, excluding packaging and transportation insurance and exclude applicable statutory VAT or turnover tax. The applicable price on the delivery date applies, unless a specific price is agreed.

2.6 Befort expressly reserves the right to adjust prices — to the extent permitted by law — if prior to the delivery date the basis for pricing is changed by e.g. wage increases, raw materials price increases or similar circumstances.

2.7 Befort is authorized to charge the client any additional expenses, if Befort and the client agree to subsequently modify an order. If Befort and the client agree to reduced order costs, Befort will reimburse the reduced order costs after deduction of any additional costs or expenses caused by the change to the client.

3. Delivery and Delivery Periods

3.1 In general, deliveries are made at the client's risk.

3.2 Delivery periods and dates stated in order confirmations are non-binding. Delivery periods and dates are only binding, if Befort commits to binding delivery periods and dates in writing on the conclusion of the agreement at the latest.

3.3 The delivery period is met, if the goods leave the factory in Wetzlar on or before the delivery date or Befort has notified the client that the products are ready for shipment or pick-up.

3.4 After prior notification of the client, Befort is authorized to make partial deliveries and provide partial performance in justified exceptional situations, in particular for operational reasons, if partial delivery or partial performance is reasonable to the client considering the interests of both parties. Befort has the right to separately invoice partial deliveries or partial performance.

3.5 Befort is not responsible for delay in delivery or delay in performance caused by force majeure or by other events or circumstances beyond Befort's sphere of control, including in particular strike, lockout,

official order, shortage of materials, unavailable goods or goods that cannot be delivered etc. This provision also applies in the case of agreed fixed delivery periods and dates or if Befort is in delay of performance. Befort will promptly notify the client of the start and end of such impairments. If the duration of the impairment is only temporary in nature, the agreed delivery period / date is extended / postponed by the period such impairment continues plus a reasonable start-up period. The client may withdraw from the respective portion of the agreement Befort did not perform, after a reasonable grace period has expired, which the client has set in conjunction with a warning notification regarding the rejection of such performance by Befort after the set period. Partial deliveries made prior to the client's withdrawal are excluded from the withdrawal, unless these partial deliveries are of no use to the client. In the case of impossibility of performance, Befort has the right to withdraw from the agreement, in whole or in part, as regards the portion of the agreement Befort has not yet performed. The client may demand that Befort informs the client, if and to which extent Befort will withdraw from the agreement or if Befort will perform delivery within a reasonable period.

3.6 Calendar weeks are decisive for the delivery periods of all orders. Calendar weeks are also decisive for deliveries; goods sent within a specified or derived calendar week are deemed to be received in due time.

4. Shipment and Passing of Risk

4.1 In the case of businessmen, legal persons or special assets under public law, place of performance for deliveries is the seat of the Befort factory in Wetzlar. The client bears the expenses for express delivery, trucking charges, freight and package delivery fees, unless agreed otherwise in writing. Befort is authorized to select the respective shipping mode.

4.2 If transportation of the goods is agreed with the client, Befort is only obligated to deliver the goods to the client's site. Offloading of the goods at the client's site by Befort is not included. A passable access road is a requirement in any case. A passable access road is a road which can be used by a loaded heavy truck. The client bears any additional expenses caused by slipperiness, ice, snow or bad road conditions. Offloading is to be performed promptly and in a proper manner by workers that the client provides. The client bears any costs caused by waiting times that exceed customary waiting times.

4.3 Shipment of goods — including partial deliveries — is made at the client's risk in any case.

4.4 The client is obligated to promptly inspect the goods regarding damages to the goods and completeness of delivery. The client's obligations under commercial law to inspect the delivered goods and to give notice of defects remain unaffected. The client is obligated to assert objections immediately upon receipt of the goods and have such objections confirmed by the carrier on the bill of lading.

4.5 Shipments are only insured against transportation damages and other risks at the express request and at the expense of the client.

4.6 Goods that are accepted prior to shipment are deemed delivered in accordance with the agreed terms.

4.7 The risk of accidental loss or accidental deterioration of the goods passes to the client, if shipment or acceptance is delayed at the client's request or the client is responsible for such delay. Befort's readiness for shipment or acceptance notification is the decisive point in time for the occurrence of a delay.

4.8 If the client is in default of acceptance, Befort has the right to demand damages at a rate of 10% of the agreed order amount after Befort has set the client a reasonable grace period in conjunction with a warning to reject performance by the client after the set period. The above provision does not affect Befort's right to furnish proof of greater damages. The client has the right to furnish proof that Befort did not suffer any damage or only a significantly smaller damage.

5. Payment Terms

5.1 Invoices are due upon receipt without any deductions. If payment is not received thirty (30) days after the due date, Befort has the right to demand payment of interest in arrears at the statutory rate of currently nine (9) percentage points above the applicable base interest rate. Befort's right to claim additional damages for default remains unaffected. Special arrangements, in particular cash discounts, require in any case Befort's written confirmation to be effective.

5.2 The client is put in default at the latest, if the client fails to pay within thirty (30) days after the due date and receipt of an invoice or equivalent payment statement.

5.3 The client may only set off against a claim of Befort, if the client's counterclaim is uncontested or recognized by declaratory judgment.

5.4 VAT or turnover tax is invoiced at the applicable tax rate at the time the service is performed. If the tax rate changes during the agreement period, the periods with different tax rates are deemed to be separately agreed at the respective tax rates.

5.5 If advance payments or securities are not paid or provided after a reasonable grace period, Befort has the right to withdraw from the agreement, in whole or in part. In this case, Befort expressly reserves the right to claim damages for unnecessarily incurred expenses, lost profits, as well as additional damages.

6. Reservation of Title

6.1 Befort retains title to all delivered goods until the client has paid in full all of our existing claims arising from the business relationship. If the client is an entrepreneur in terms of Section 14 German Civil Code [BGB], the reservation of title relates to all claims arising in the future from agreements concluded at the same time or at a later date and to claims arising from any current account balances.

6.2 Any processing of Befort's property subject to the reservation of title by the client is performed on behalf of Befort. Befort will acquire ownership to the new thing at no cost to Befort. If goods delivered by Befort are mixed, processed or combined with other objects, the client, hereby, assigns to Befort any ownership or co-ownership to the mixed or new object proportionate to the value of our invoices. The client is obligated to keep the mixed or new object on behalf of Befort with the due care of a prudent businessman.

6.3 The client, hereby, assigns to Befort any claims the client may have against its customers to the payment of a purchase price or other claims to remuneration, including all ancillary rights, that will arise from the resale of the mixed or new object or any other sales transaction concerning the mixed or new object. These claims provide security to the same extent as the goods subject to the reservation of title. The client is only entitled and authorized to resell or use otherwise the goods subject to the reservation of title, if it is ensured that any claims arising from such resale or use are assigned and transferred to Befort and that the client is not prohibited to assign its claims as regards the relationship between the client and its customer.

6.4 At the request of Befort, the client is obligated to inform Befort at any time on the whereabouts of the goods subject to the reservation of title and on the claims that arose from resale or other use.

6.5 If the value of securities provided by the client for Befort's benefit exceed its claims against the client by more than ten percent (10%), Befort is obligated at the client's request to release at its option provided securities accordingly.

6.6 If Befort processes goods of the client, Befort acquires co-ownership to the processed object proportionate to the ratio between Befort's invoice amount and the value of the new product. The client is not permitted to pledge or transfer by way of security any goods that are subject to reservation of title. If goods subject to reservation of title or claims assigned to Befort are attached or third parties exercise any rights or titles against such goods or claims otherwise, the client is obligated to promptly inform Befort of these measures and document Befort's property rights to such goods or claims vis-à-vis these third parties. The client bears the cost for any required intervention.

6.7 To secure all of Befort's existing and future claims from the business relationship with the client, the client, hereby, assigns to Befort all of its claims and ancillary rights that arise for any legal reason whatsoever from the resale or other use of the goods subject to reservation of title. This provision also applies to the client's claims against insurance companies or injuring parties in the case Befort's property subject to the reservation of title is damaged, lost or destroyed. If Befort has co-ownership to the goods subject to the reservation of title in addition to the co-ownership of other parties, the above assignment of future claims only applies to the invoice value of Befort's goods that are subject to the reservation of title.

6.8 If the client is in default of delivery or Befort's property subject to the reservation of title or Befort's claim is deemed to be at risk, Befort may demand that the client returns the goods subject to reservation of title and the client is obligated to return the goods subject to reservation of title. Befort has the right to take possession of the goods subject to reservation of title; Befort does not withdraw from the agreement by taking back the goods subject to reservation of title, unless the provisions of the German Installment Sales Act [Abzahlungsgesetz] apply. At Befort's request, the client is obligated to promptly provide Befort with the names of the debtors of the assigned claims, provide all required information and make available the required documentation to Befort, so that Befort is in a position to enforce its claims arising from the assignment of future claims. If the value of the above securities exceeds the value of Befort's invoices by more than twenty (20%) percent, Befort is obligated to release any exceeding securities at the client's request.

7. Warranty

7.1 The client is obligated to give written notice of apparent defects, apparent incorrect or incomplete deliveries, apparent quantities or dimensions variations within eight (8) days after receipt of delivery. The client is obligated to note apparent transportation and packaging damages on the bill of lading / delivery note on the arrival of the goods and give written notice of these damages to Befort within eight (8) days after receipt of delivery. If the client fails to give notice of aforementioned defects / damages, the goods are deemed to be free of defects and approved by the client in accordance with the agreement. The client should enclose the respective delivery note with all notices of defects, if possible.

7.2 The warranty period for services under a contract for work and services is one (1) year. The statutory warranty period applies to building constructions or constructions, where the specified result in an agreement is the provision of planning or monitoring services for a building construction. The warranty period begins upon acceptance at the latest.

7.3 In the case of a justified notice of defects provided within the set period, Befort will remedy the defect within a reasonable period at no cost to the client at its option by subsequent improvement or by replace-

ment delivery of defect free goods. In suitable cases, Befort may also reasonably compensate the client for the reduced value in lieu of subsequent improvement or replacement delivery. The client is obligated to return the defective goods at Befort's request. In this case, Befort will bear the transportation cost. If Befort defaults with replacement delivery or subsequent improvement, the client has the right to withdraw from the agreement after a grace period set by the client expires without result. The client may, however, not withdraw from the agreement in the case of minor defects or variations. Damage claims are excluded for minor defects. Other claims of the client, in particular damages, are excluded to the extent permitted by law. The above provisions also apply, if Befort delivers other goods than the contractually agreed goods.

7.4 The client is obligated to promptly accept services under a contract for work and services after their transfer to the client. The client may not refuse acceptance in the case of minor variations from product characteristics or acceptance criteria. Befort's obligation to remedy defects in accordance with these provisions remains unaffected.

7.5 Services are provided without any warranty.

7.6 Within the scope of our coating services, Befort does not assume any liability or warranty for objects or products provided by the client that extends beyond our terms and conditions. Befort does not make any warranty for the final product or substrate, but exclusively for the coating in accordance with these Ts&Cs. By placing an order, the client accepts that a loss up to 10% of the delivered products may occur within the scope of coating services. For this reason, Befort strongly recommends that the client delivers an excess quantity of 10%.

7.7 Befort does not assume any warranty for damages or defects resulting from improper use, incorrect assembly or transportation, incorrect installation, repair or repair attempts or improper storage by the client, third parties or third parties that are not authorized by Befort.

8. Liability

8.1 Befort is liable without limitation for damages Befort has caused through a violation of a guarantee Befort has given on the conclusion of the agreement, personal injuries, as well as damages Befort caused with intent or gross negligence. In addition, Befort is liable for the material contractual obligations [Kardinalpflichten] to the extent required by law and for claims based on the German Product Liability Act. Otherwise, liability is excluded to the extent permitted by law.

8.2 The above liability agreement comprises all contractual claims and claims in tort for any violation of contractual duties. This provision also includes claims arising from culpa in contrahendo.

9. Data Protection and Data Processing

The client agrees that Befort may, to the extent required for the performance of the agreement, store, automatically process and use the client's personal data Befort receives from the client within the scope of the business relationship. Befort is permitted to forward such data to sub-contractors and authorized persons for communication purposes with the client. The client agrees that Befort uses the client's name and the services Befort provides to the client as a customer reference, in particular in print media, on web pages and other advertising materials. Befort will not forward or disclose this data to unauthorized third parties.

10. Final Provisions

10.1 The provisions of the Civil Code of the Federal Republic of Germany apply under exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG). This provision also applies, if the client has its registered offices abroad. The client can safeguard its rights exclusively in Germany. All rights and duties of the parties are governed by the laws of the Federal Republic of Germany.

10.2 If the contractual parties are businessmen, legal persons or special assets under public law in terms of Section 38 Para 1 German Code of Civil Procedure [ZPO], Befort's seat is decisive for the determination of the place of jurisdiction. The above provision applies, in particular, to the assertion of claims arising from deliveries, to the assertion of payment claims, as well as to the assertion of all claims of the parties arising from disputes, except for disputes that do not relate to pecuniary claims or a claim that may only be asserted at an exclusive place of jurisdiction.

10.3 The client may only transfer its rights and duties under this agreement to third parties with Befort's written consent. The above consent is not required, if the assignment includes an effective extended reservation of title agreement between the client and the third party (assignee) in accordance with the above provisions.

10.4 Should individual provisions of the above terms and conditions be ineffective, this does not affect the effectiveness of the remaining provisions.