

General Terms & Conditions (GTC) for Biral AG

Preliminary note:

These GTCs are valid for all domestic and export business for Biral AG (hereafter “Supplier”) and any applicable provisions exclusively for domestic or export business are identified accordingly.

1 General

- 1.1 The contract is only concluded upon receipt of written confirmation to the Supplier that the order is accepted (order confirmation). Offers from the purchaser that do not include any terms of acceptance are non-binding for the Supplier, and those that are not accepted within the terms of acceptance of the Supplier have not validity.
- 1.2 These GTCs are binding for all legal business with the Supplier, provided they have not been excluded expressly in full or in part. Contrary general terms and conditions from the purchaser are only valid insofar as they have been expressly accepted in writing by the Supplier.
- 1.3 Insofar as special conditions deviating from business with the customer at home or abroad have been explicitly agreed in writing, these special conditions take priority over the corresponding provisions of these GTCs, and the remainder of the GTCs remain unchanged for the appropriate business relation- ships.
- 1.4 All agreements and legally relevant declarations by the contract parties must be made in writing in order to be valid. Declarations in text format, which are transmitted or retained via electronic media, only equate to the written format if specifically agreed by the parties.
- 1.5 Should individual provisions from these GTCs or from specific contracts be ineffective or incomplete, or should it become impossible to fulfil them, then the remaining parts of the GTCs or contract are not affected by this.

2 Scope of deliveries and services

- 2.1 The deliveries and services of the Supplier are listed in full in the order confirmation, including any enclosures (such as export business in the form of general conditions and warranty flat rates / conditions) for this, as well as in these GTCs.

3 Plans and technical documents

- 3.1 Brochures and catalogues from the Supplier, as well as details in technical documents, are non-binding without express written agreement to the contrary.
- 3.2 Each contract party reserves all rights to plans and technical documents, which they have passed to the other party. The receiving contract party recognises these rights and will not make the documents available to third parties in full or in part, or use them outside the purpose for which they are entrusted to them without the prior written authorisation of the other contract party.

4 Prices

- 4.1 All prices are understood to be gross, exclusive of VAT and heavy goods vehicle tariff and including packaging.
- 4.2 The transportation and shipping costs for deliveries within Switzerland, selected by the Supplier, via motor vehicle or post (standard B-post) are at the expense of the Supplier. Express and courier deliveries are not included in the price, and are charged to the purchaser.

- 4.3 For export business, i.e. deliveries outside Switzerland (“**export business**”), all prices are given net in the General Terms & Conditions, which are signed by both parties, and the delivery is also agreed to be binding according to the enclosed Incoterms.
- 4.4 Essentially, the Suppliers’ quotations are valid for three months for domestic or foreign deliveries. The Supplier reserves the right to make any price adjustments that arise between the time of the offer and contractual fulfilment.
- 4.5 A price adaptation is made at the discretion of the Supplier if the delivery deadline is subsequently extended for reasons mentioned in clause 7.3 and/or the documents provided by the purchaser did not correspond to the actual conditions and/or were incomplete.

5 Payment terms

- 5.1 Payments for deliveries within Switzerland are to be made in Swiss Francs at the domicile of the Supplier, without deductions (particularly discounts, expenses, taxes, duties, fees, customs duties and similar).
- 5.2 For payments to suppliers outside Switzerland, the General Terms & Conditions, to be signed by both parties, are applicable.
- 5.3 Provided nothing is agreed to the contrary, the amount owed by the Supplier must be settled within a term of 30 calendar days from the invoice date. After this date the purchaser is deemed to be in default (day of expiry) without further action on the part of the Supplier, and the purchaser is obliged to pay the Supplier default interest of 5% p.a. as well as any compensation.
- 5.4 If the purchaser is in default with a payment (particularly fees or provision of security) then the Supplier can issue the purchaser a reminder with a grace period of 20 calendar days and once this has expired, either declare withdrawal from the contract and demand compensation (positive or negative contract interest) or continue to request the payment of the purchase price.
- 5.5 If the purchaser does not adhere to the agreed payment deadlines and a reminder has to be issued by the Supplier, they are then obliged to settle a late payment fee of CHF 50 per reminder received.

6 Title retention

- 6.1 The Supplier remains the owner of all their deliveries until receiving all payments in full according to the contract. When concluding the contract, the purchaser authorises the Supplier, at the cost of the purchaser, and insofar as is possible, to enter the title retention in an official or similar register and to fulfil all formalities in this respect.
- 6.2 The purchaser will maintain the delivered goods at their expense and insure them in favour of the Supplier for the duration of the title retention, against theft, breakage, fire, water and other risks, and provide the Supplier with proof of such insurance in writing, if requested. They will also take all measures to ensure that the title claim of the Supplier is neither affected nor reversed.

7 Delivery deadline

- 7.1 The delivery deadline begins as soon as the contract is concluded, all official formalities have been dealt with, payments and any securities have been made by the purchaser when ordering, and all important technical points have been cleared.
- 7.2 For orders on request, the supplier reserves the right to manufacture the ordered goods only upon receipt of the call-forward notice.
- 7.3 The delivery deadline has been adhered to if the notification for readiness to dispatch has been sent to the purchaser up to its expiry.
- 7.4 The delivery deadline is extended at the discretion of the Supplier:
- a) If the details that the Supplier requires to fulfil the contract do not arrive in time, or if the purchaser subsequently modifies these details and thereby causes a delay to the deliveries or services;
 - b) If impediments arise, which the Supplier cannot avert despite the application of sufficient care, irrespective of whether they occur with them, with the purchaser or with a third party. Such impediments may be, for example epidemics, mobilisation, war, riots, considerable disruption to operations, accidents, work conflicts, delayed or faulty delivery of the raw materials, semi-finished or finished products required, defects in important work pieces, official measures or omissions and natural phenomena;
 - c) If the purchaser or third party are behind schedule with the work to be carried out or are delayed in fulfilling their contractual duties, particularly if the purchaser does not adhere to the payment conditions.
- 7.5 If the delivery deadline is not maintained by the Supplier, the purchaser must set the Supplier a reasonable extension of at least 20 calendar days in writing. If this extension is not adhered to for reasons for which the Supplier is responsible, the purchaser is entitled to refuse to accept the delayed part of the delivery. If partial acceptance is economically unacceptable to them, they are entitled to withdraw from the contract and to ask for a refund of payments already made against return of the deliveries made.
- 7.6 The purchaser has no rights except those expressly mentioned in clause 7 here, due to delays in deliveries or services.

8 Transfer of benefits and risk

- 8.1 Benefits and risk for deliveries transfer to the purchaser when leaving the factory at the latest. If Incoterms have been agreed for export business, the transfer of benefits and risk is orientated towards those Incoterms agreed.
- 8.2 If the shipping is delayed at the request of, or as a result of delay in acceptance by the purchaser or for other reasons, which are not the responsibility of the Supplier, the risk transfers to the purchaser in any case at the originally agreed time in which the delivery should have left the factory. From this time on, the deliveries are stored at the cost and risk of the purchaser.

9 Checking and acceptance of deliveries and services

- 9.1 The Supplier will check the deliveries and services insofar as is usual prior to shipping. If the purchaser requires further checks, these must be specially arranged prior to delivery and must be paid for by the purchaser.
- 9.2 The purchaser must check the deliveries and services within a reasonable period, i.e. within three calendar days after receipt at the latest, and inform the Supplier of any faults immediately in writing. If he neglects to do this, the deliveries and services are considered to have been expressly accepted.
- 9.3 The Supplier must rectify the defects notified in writing according to clause 9.2, as quickly as possible, as they see fit, via reworking or a replacement delivery. The purchaser will have given them the opportunity to do this and, in particular, will have provided unhindered access to the faulty delivery.

10 Warranty and liability for defects

- 10.1 If the item supplied is intended for personal or family use by the purchaser, the warranty of the Supplier is valid in any case for 24 months from delivery to the purchaser, including replaced or repairs parts or products. In other cases, the following applies.
- 10.2 In other cases, the warranty term applies for 12 months from receipt of the delivery. It is extended to 24 months if, a commissioning and acceptance test has been carried out by the Supplier under clause 12. For products, for which the Supplier provides neither a commissioning nor acceptance test, the warranty term is also 24 months.
- 10.3 If the despatch is delayed for reasons that are not the responsibility of the Supplier, the warranty term is reduced by the corresponding period. If the despatch cannot be effected within at least 12 months following notification of readiness to ship, for reasons that are not the fault of the Supplier, the warranty claim lapses in full.
- 10.4 For replaced or repaired parts or products, the warranty terms are renewed and last for 12 months from delivery of the replacement part or when the repair is completed.
- 10.5 The warranty obligation of the Supplier lapses prematurely if the purchaser or a third party undertakes improper modifications, or repairs or if the purchaser does not immediately take suitable measures to reduce damage, or does not give the Supplier the opportunity to put right the fault in the event of a defect.
- 10.6 The Supplier is only obliged to repair or replace any parts in the delivery as quickly as possible and as they choose, at the initial written request of the purchaser, where these can be proven to be defective or unusable as a result of poor material, faulty design or defective performance, up to the expiry of the warranty period, provided the purchaser has fulfilled their testing and notification obligations in full according to clause 9.2. Replaced parts are the property of the Supplier, insofar as they have not expressly waived this in writing.
- 10.7 Guaranteed properties are only those that can be called such explicitly in the contracts, such as specifications. The assurance shall apply at the latest until the end of the warranty period mentioned above.
- 10.8 If the guaranteed properties are not, or are only partly, fulfilled, the purchaser may first demand immediate revision by the Supplier. The purchaser must guarantee the Supplier the required time and opportunity to do this (in particular, unlimited access to the delivery. If this reworking does not succeed or only partly succeeds after two attempts, the purchaser may demand a reasonable reduction in the price. If the defect is so serious that it cannot be rectified within a reasonable period, and if the deliveries or services cannot be used for their intended purpose, or only to a considerably reduced degree, the purchaser has the right to refuse acceptance of the defective element or, if participation is economically unreasonable, to withdraw from the contract. The Supplier's liability is limited in any case to the refund of amounts that they were paid for the parts affected by the withdrawal.
- 10.9 Excluded from the warranty and liability of the Supplier are damages that cannot be proven to be the result of poor material, faulty design or defective performance, as well as other circumstances that have arisen that are not the fault of the Supplier, in particular, but not exhaustively, as a result of natural wear and tear, faulty maintenance, disregard of company regulations, application outside the defined usage purpose, the feeding of media not intended for this purpose, excessive use, unsuitable fuels or electrolytic effects and construction or installation work not carried out by the Supplier, etc.
- 10.10 For products, for which warranty claims have been granted, no analysis reports will be drafted by the Supplier. There is no claim to an analysis report outside the warranty period.

11 Exclusion from further liability for the Supplier

- 11.1 All cases of breach of contract and its legal consequences, as well as all claims by the purchaser, irrespective of the legal basis, are conclusively regulated in these terms and conditions. In particular, all claims to compensation, reduction, annulment of the contract or withdrawal from the contract, insofar as are legally permissible, are excluded. In no case may the purchaser claim for replacement in the event of damage that did not occur at the place of delivery itself, such as loss of production, loss of usage, loss of orders, lost profit and other direct, indirect (consequent) damage. This exclusion from liability not only applies to unlawful intent or gross negligence by the Supplier, but it is also applicable in the event of unlawful intent or gross negligence by other parties.

12 Commissioning and acceptance test for deliveries within Switzerland

- 12.1 Conducting a commissioning and acceptance test at their own expense for deliveries within Switzerland protects the Supplier with regard to the 24-month warranty obligation mentioned at clause 10.2. If a chargeable commissioning and acceptance test is carried out by the supplier, or by our authorised service partners (<https://www.biral.ch/de/service-support/service/biral-servicepartner>), for deliveries within Switzerland, the customer is warranted the guarantee obligation of 24 months that is mentioned under clause 10.2.
- 12.2 If no acceptance test is carried out by the Supplier, or if this is faulty for reasons that are not the fault of the Supplier, a warranty period of only 12 months is granted.
- 12.3 If a commissioning and acceptance test cannot be carried out due to defects and/or for reasons that are not the fault of the Supplier, the Supplier invoices the costs arising.
- 12.4 After rectifying the defects and/or complaints, another commissioning and acceptance test can be carried out. This must take place within a month after the fault and/or complaints came to light, and must be notified five calendar days in advance.

13 Maintenance contracts and warranty extension contracts for deliveries within Switzerland

- 13.1 Insofar as various maintenance and warranty extension contracts for deliveries within Switzerland do not provide for any deviations, they are essentially subject to the general terms and conditions of the Supplier.

14 Credits and return deliveries

- 14.1 Credits and return deliveries are only permissible with the prior express agreement of the Supplier.
- 14.2 Return deliveries are only processed upon production of the delivery note, the invoice and the returns form completed in full. If the purchaser is not in a position to produce these documents, no return deliveries or credit can be granted. For all return deliveries for which a returns form is included, which is not complete or not correctly filled in, a one-off processing fee of CHF 150 per product may be invoiced or offset against any credit.
- 14.3 The period for return deliveries of unused products is 60 calendar days from the delivery date for domestic business. For export business the term is 90 days.
- 14.4 For products returned that are defective due to the purchaser, which are returned in a condition that cannot be reused, the purchaser may be charged 100% of the net invoice amount in repair costs, or this may be offset against any credit at the exclusive discretion of the Supplier.

For permissible return deliveries according to clauses 14.2 to 14.3, 10 % of the net invoice amount will be charged to the purchaser or offset against any credit.

- 14.5 Products that are produced to a specific order or procured specially, or products that are not listed on the current price list, cannot be returned and the purchaser will not receive any credit.

- 14.6 Return delivery costs are generally to be paid by the customer. Exceptions are incorrect deliveries, which can be proven to be the fault of the Supplier. An exception is product returns requested by the Supplier, which are covered under a warranty flat rate, and where no return obligation exists on the part of the client.
- 14.7 Purchasers who are supplied directly by the Supplier must enclose the relevant return form completed in full (<https://www.biral.ch/de/service-support/pumpenruecksendung/>) when returning products.
- 14.8 Customers of trading partners of the Supplier must negotiate their return deliveries with the relevant trading partners.
- 14.9 The trading partner of the Supplier who sells their products, must enclose the returns form completed in full (this can be called up at: <https://www.biral.ch/de/service-support/pumpenruecksendung/>) according to clause 14.8, when sending back deliveries to the Supplier.
- 14.10 Return deliveries according to clause 14.7 or clause 14.9, which cannot be allocated by the Supplier or, which according to clause 14.8 have been sent back to the Supplier direct, instead of to the trading partner, will be stored and then disposed of in both cases for three months. Return deliveries which do not contain a returns form completed in full, a delivery note or an invoice, cannot be allocated.

15 Place of jurisdiction and applicable law

- 15.1 **The place of jurisdiction for the purchaser and Supplier is the head office of the Supplier.** However, the Supplier is entitled to bring legal action against the purchaser at the location of their head office.
- 15.2 The legal relationship is subject to substantive Swiss law with the exclusion of the conflict of laws and the CISG.

GTC read and understood:

The purchaser