

For use with:

1. a person who at the time the contract comes into effect is acting in a professional capacity either as an employee or as a self employed person;
2. legal entities under public law or a public-law special fund

I. General

1. All deliveries and other services are subject to these conditions and any other separate contractual agreements entered into. Contradictory conditions of purchase of the Buyer do not become part of the contract, even when an order subject to such conditions is accepted.

A sales contract comes into existence – in the absence of any special agreement – when BALSTER issues a written order confirmation.

2. BALSTER reserves copyright and proprietary rights on all samples, quotations, drawings, including, among others, information of both a tangible and intangible kind including information in electronic form – and none of these must be allowed to become accessible to third parties. BALSTER undertakes not to pass on to third parties information which the Buyer has described as confidential.

II. Prices and payment

1. In the absence of any agreement to the contrary, prices are ex-works including loading, but excluding packing and offloading. Value Added Tax or sales tax at the applicable statutory rate will be added.

2. Basically, payments are to be made in EURO and clear to BALSTER's account when the goods are ready for shipment.

3. If payment terms are exceeded, interest will be charged at the going rate which BALSTER would have to pay to their bank for credit.

4. The Buyer's right to withhold payment is only valid in as far as his/her claims are undisputed or have been established to be legally binding.

5. The Buyer's right to counterclaim according to other legal jurisdictions, are only acceptable if these claims are undisputed or have been established to be legally binding.

III. Delivery time, delay in delivery

1. The delivery time is a product of the agreements between the parties to the contract. BALSTER's observance of it depends on all commercial and technical questions arising between the parties having been clarified and the Buyer having fulfilled all his/her obligations in respect of, for example, official certification or approval or the payment of a deposit. If this is not the case, the delivery time will be extended accordingly. However, no extension will be granted if BALSTER is responsible for the delay.

2. Keeping to the delivery time is conditional upon BALSTER receiving correct and punctual deliveries from BALSTER's own suppliers. BALSTER will make known any delays which are in the offing as soon as possible.

3. The delivery time is deemed to have been observed if the object to be delivered has left BALSTER, or the fact that it is ready for shipment has been made known before the delivery time has been exceeded. If an acceptance inspection is to take place, it is the inspection date, alternatively the announcement of the readiness of the goods for inspection, which is applicable, unless a justifiable reason for denial of acceptance is given.

4. If the shipment, or the acceptance, of the object to be delivered is delayed for reasons for which the Buyer is responsible, costs incurred by this delay will be invoiced to the Buyer, starting one month from the date of readiness for shipment/acceptance.

5. If non-compliance with the delivery time can be attributed to force majeure, industrial action or other such events lying outside BALSTER's control, the delivery time will be extended accordingly. BALSTER will inform the Buyer as soon as possible regarding the beginning and the end of such circumstances.

6. The Buyer can cancel the contract without notice if it becomes apparent, before transfer of risk, that BALSTER is definitely not in a position to deliver the contract in its entirety. Moreover, the Buyer can also withdraw from the contract if the execution of one part of the order becomes impossible and the Buyer has a legitimate reason for non-acceptance of a part-delivery. In the absence of such a legitimate reason, the Buyer must pay the contractual price of the part-delivery. The same is true in the case of inability of the supplier to perform. Furthermore, paragraph VII.2 shall apply.

If either the impossibility of completion of the contract, or the inability of the supplier to perform, becomes apparent during acceptance default on the part of the buyer or if, on the other hand, the Buyer is solely or in the main part responsible for these circumstances, then the Buyer remains obliged to recompense the supplier.

7. Should BALSTER get behind schedule, and should this cause harm to the Buyer, the Buyer has the right to demand a flat rate compensation for the delay. This shall be 0.5% of the total for each complete week's delay, to a maximum of 5% of the value of the individual part of the total delivery which, as a consequence of the delay, cannot be used in time or according to contract.

If the Buyer demands performance of the contract by BALSTER after the expiry of a commensurate notice period – taking account of the legally recognised statutory exceptions – and if BALSTER fails to perform in time, the Buyer has the right to cancel the contract, within the terms of the relative legal framework. The Buyer, if requested to do so by BALSTER, undertakes to explain within a reasonable period of time, whether or not they intend to make use of their right to cancel.

Any further claims resulting from a delay in delivery are limited solely to those contained in paragraph VII.2 of these Terms and Conditions.

IV. Transfer of risk, Acceptance.

1. Risk is transferred to the Buyer from the moment the object to be delivered has left the factory, and this also applies in the case of part-deliveries or if BALSTER is paying for other services such as transport costs, delivery and installation. In the case that an acceptance inspection is to take place, the carrying out of this determines the transfer of risk. This acceptance procedure must be carried out punctually at the scheduled time or alternatively immediately after BALSTER has signalled that they are ready for the inspection. The Buyer can not reject the delivery on the grounds of a non-substantial defect.

2. If either shipment or the acceptance inspection is delayed for reasons for which BALSTER is not responsible, risk is transferred to the Buyer from the date when BALSTER announces readiness for shipment or inspection. At the expense of the Buyer, BALSTER undertakes to arrange insurance as required by the Buyer.

3. Part-deliveries are permitted, inasmuch as they can be regarded as reasonable for the Buyer.

V. Retention of title

1. BALSTER retains title to the delivery item until all contractual payments have been made, including those owing for any ancillary services provided.

2. BALSTER has the right to insure the delivery item, at the Buyer's expense, against theft, breakage, fire, water and other damage, if such insurance has not demonstrably been purchased by the Buyer.

3. The Buyer must not sell the delivery item, nor pawn it, nor assign it as collateral. The Buyer must inform BALSTER without delay in the case of seizure or sequestration by a third party.

4. Should the Buyer be in breach of contract, especially in the case of late payment, BALSTER has the right to take back the delivery item, after giving warning, and the Buyer is obliged to surrender it.

5. As a consequence of retention of title, BALSTER can only demand surrender of the delivery item after having rescinded the sales contract.

6. Filing for bankruptcy gives BALSTER the right to back out of the contract and to demand the immediate surrender of the delivery item.

VI. Liability for defects

BALSTER is liable for material and legal defects in the delivery, under the exclusion of all other claims – but subject to paragraph VII - as described below:

Material defects:

1. All parts which turn out to be defective as a result of circumstances which occurred before the transfer of risk will be either put right or replaced with non-defective parts at BALSTER's discretion. Such defects are to be reported to BALSTER without delay. Replaced parts become the property of BALSTER.

2. The Buyer, after consulting with BALSTER, must allow BALSTER sufficient time and opportunity to carry out

any corrective modifications which appear necessary or to replace the defective parts, otherwise BALSTER cannot be held responsible for the resulting consequences. Only in emergencies, where health and safety at work is put in jeopardy or in cases where disproportionate damage could result, does the buyer have the right to correct the defects himself or have them corrected by third parties and to charge BALSTER for the expenditure incurred. In such cases BALSTER must be informed at the earliest possible opportunity.

3. If the complaint is shown to be justified, BALSTER will pay for the costs directly incurred by corrective modifications or replacement parts, including transport. BALSTER will also pay for removing and fitting the parts and for providing any necessary engineers and auxiliary personnel, including their travel costs, as long as this does not result in costs which are totally out of proportion for BALSTER.

4. The Buyer has the right to back out of the contract, within the conditions set by law, if BALSTER – taking account of the legally recognised exceptions – does not carry out corrective modifications or provide replacement parts before the elapse of a reasonable time period set by the Buyer. If the defect is only slight, then the Buyer only has the right to claim a reduction in the contract price. The right to claim such a reduction is excluded in all other cases.

5. Further claims are defined in paragraph VII.2 of these Terms and Conditions.

6. No responsibility will be accepted particularly in the case of the following: inappropriate or improper use, incorrect assembly or commissioning by the Buyer or third parties, normal wear and tear, incorrect or negligent operation, wrong maintenance, use of inappropriate equipment, faulty building works, inappropriate foundations, detrimental chemical, electrochemical or electrical influences – inasmuch as these have not been caused by BALSTER.

7. Should the Buyer or a third party carry out inappropriate improvements to the equipment, BALSTER is not responsible for the consequences of such. The same applies to any alterations carried out to the equipment supplied without the prior approval of BALSTER.

Legal liabilities:

8. Should the use of the equipment supplied result in the infringement of industrial or intellectual property rights in Slovakia, BALSTER will at their cost do whatever is necessary to assure that the Buyer has the basic right to continue to use the equipment or will modify the equipment in such a way - acceptable to the Buyer - that the infringement no longer exists.

If this cannot be done within financially acceptable conditions or within a reasonable period of time, the Buyer has the right to revoke the contract. Under these circumstances, BALSTER also has the right to revoke the contract.

Furthermore BALSTER will absolve the Buyer from undisputed or legally binding claims of the owner of the industrial or intellectual property rights.

9. BALSTER's obligations as described in paragraph VI.8 are subject to paragraph VII.2 in the case of infringement of industrial or intellectual property rights having been established.

They are only valid if

- the Buyer has made BALSTER immediately aware of the fact that claims to industrial or intellectual

property rights have been enforced.

- the Buyer supports BALSTER to an appropriate extent in their defence against such claims as may have been enforced, or alternatively, assists BALSTER in the execution of corrective modifications as described in paragraph VI.8.

- all means of defence including out of court settlements remain available to BALSTER

- the legal challenge was not instigated by information from the Buyer

- the infringement was not caused by the Buyer having made unauthorised changes to the equipment supplied or having used it in a way not compatible with the contract

VII. BALSTER's liabilities and exemptions from liability

1. If the equipment supplied cannot be used by the Buyer as foreseen in the contract for reasons of missing or erroneous suggestions or advice on BALSTER's part, whether made before or after the signing of the contract, or because of culpable neglect by BALSTER of other secondary contractual duties – in particular the provision of instructions as to how to use and maintain the equipment supplied, then the stipulations of paragraphs VI and VII.2 come into force, to the exclusion of any further claims by the Buyer.

2. For damages not directly caused by the equipment supplied, BALSTER will only accept responsibility –

irrespective of the legal basis – in the case of

- a. wilful intent
- b. gross negligence on the part of the owner / the institution or senior management
- c. culpable injury to life, body or health
- d. defects which BALSTER has fraudulently kept quiet about
- e. a guarantee promise made
- f. defects in the equipment supplied, inasmuch as the responsibility is founded on product liability law for damage to persons and property from the personal use of objects.

In the case of culpable infringement of substantial contractual obligations, BALSTER also accepts responsibility for gross negligence on the part of non-executive staff, as well as for ordinary negligence, limited in the latter case to reasonably foreseeable damages typical for the contract.

All further claims are excluded.

VIII. Statutory limitation

All claims by the Buyer – irrespective of their legal basis – expire after 12 months. For compensation claims according to paragraph VII.2a-d and f, the legal time limits apply. They also apply for defects to a building or for equipment supplied, which when used as is normal for such equipment in construction work, has caused its imperfection.

IX. Software use

Inasmuch as software forms part of the delivery, the Buyer acquires a non-exclusive right to use the supplied software including its documentation. It is provided for use with the equipment supplied. Use of the software on more than one piece of equipment is prohibited.

The Buyer can only reproduce, modify or translate the software to the extent permitted by intellectual property law. This also applies to converting from the object code into the source code. The Buyer undertakes not to remove manufacturer's details – in particular copyright notices – or to alter them without the explicit prior consent of BALSTER. All other rights to the software and to the documentation, including copies thereof, remain the property of BALSTER or of the software supplier. The granting of sub-licences is prohibited.

X. Applicable law, jurisdiction

1. All legal relations between BALSTER and the Buyer are governed by the law of the Slovak Republic, which determines legal relationships between parties domiciled in Slovakia.

2. Jurisdiction is exercised by the law court responsible for the place of business of BALSTER. However, BALSTER has the right to take legal action at the law court responsible for the main place of business of the Buyer.