



BREWFORCE Brautechnik GmbH

General Terms and Conditions

BREWFORCE Brautechnik GmbH

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§ 1 Validity

(1) All deliveries, services and offers of BREWFORCE Brautechnik GmbH will be effected exclusively based on this general terms.

These are part of all contracts which include the offered deliveries or services between the seller and his contract partners (hereafter called „Buyer“).

(2) General terms of the seller or third parties will be contradicted. They will not apply even if the seller does not contradict separately in each individual case. Even if the seller refers to a letter containing the general terms of the buyer or third parties or refers to, this is no accordance with the validity of these terms.

§ 2 Offer and conclusion of contract

(1) All offers, prices and technical documentation of BREWFORCE Brautechnik GmbH are subject to change and without obligation unless they are not explicit marked as binding or contain a definite term of acceptance. BREWFORCE Brautechnik GmbH is eligible to accept orders or contracts within seven days from receipt.

(2) Exclusively applicable for the privacy of contract between BREWFORCE Brautechnik GmbH and the buyer is the concluded contract including this general terms. These reflect all agreements between the parties at the contract date completely.

(3) Details on the object of delivery or service (e.g. weights, dimensions, utility value, capacity, tolerances and technical details) as well as design of the objects (e.g. drawings and pictures) given by BREWFORCE Brautechnik GmbH are only roughly applicable unless the usability for the contractual intended purpose premise an exact match. They are no guaranteed characteristic states but descriptions or identification of delivery or service. Commercial deviations and deviations caused by legal regulations or technical innovations, as well as replacement of parts by equal parts are acceptable as far as they do not effect the usability of the contractual intended purpose.

(4) BREWFORCE Brautechnik GmbH reserves the property or copyright on all provided offers as well as drawings, pictures, calculations, brochures, catalogues, models, tools and other documents and media. The buyer is not allowed to make these objects accessible neither directly nor with regard to contents to third parties or to use or copy it through third parties without explicit authorization of the seller. He has to return these objects completely to BREWFORCE Brautechnik GmbH and to destroy possibly copies on demand of BREWFORCE Brautechnik GmbH if they are no longer necessary for the proper course of business or if negotiations do not lead to a conclusion of contract.

§ 3 Prices, minimum-order, delivery costs and payment

(1) The prices are valid for in offers, catalogue, internet or order confirmation listed articles. Additional or special

services will be charged separately. The prices are quoted in EURO ex works. Additionally is the legal value added tax at the time of contract conclusion (deliveries within Germany), delivery costs, fees as well as taxes on export deliveries and other legal expenses. BREWFORCE Brautechnik GmbH is eligible to demand advance partial or complete payment.

(2) Delivery costs:

Packaging, loading and shipping costs shall be borne by the buyer and shall be charged separately.

(3) Invoiced amounts have to be paid within 14 days without any deduction as soon as there is no other written agreement. Authoritative for the date of payment is receipt by BREWFORCE Brautechnik GmbH. Checks will be valid payment after being cashed.

(4) Setting off counterclaims of the buyer or retention of payments because of those claims is only permissible for the buyer if the claims are indisputable or legally binding.

(5) BREWFORCE Brautechnik GmbH is authorized to execute outstanding deliveries or services only against advance payment or deposit if BREWFORCE Brautechnik GmbH after conclusion of contract gets notice of circumstances which seem to decrease the creditworthiness of the buyer and which can compromise the payment of outstanding claims of the seller by the buyer of the particular contractual relationship.

§ 4 Delivery and delivery time

(1) Deliveries will be carried out ex works.

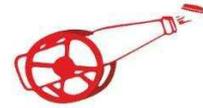
(2) Periods and dates announced by BREWFORCE Brautechnik GmbH are roughly unless a definite period or date is assured or agreed. As soon as shipment is agreed, delivery periods and delivery dates refer to date of handing over to the forwarder or other third party assigned for the transport. In case of delivery against advance payment the announced deadline start on the working day after the day of payment receipt.

(3) The seller is authorized – without limiting his further rights of delay of the buyer – demand a prolongation of delivery and performance period from the buyer for the period, the buyer does not fulfill his contractual obligations.

(4) BREWFORCE Brautechnik GmbH is not liable for impossibility of delivery or for delays on delivery as soon as they are caused by force majeure or other unforeseeable incidents which are not caused by BREWFORCE Brautechnik GmbH (e.g. business disruptions of all kind, difficulties in supply of material or energy, transport delays, strikes, legal lock-out, absence of personnel, energy or raw material, difficulties on supply of official authorizations, official actions or missing, wrong or late deliveries by suppliers). As far as such incidents make delivery or service for the seller difficult or impossible and the obstruction is not only of temporary duration, the contract partners are eligible to withdraw from the contract. In this case the seller has to inform the buyer immediately about kind of delivery obstruction and its anticipated duration. In case of temporary obstructions the delivery or service period will be postponed for the duration of obstruction plus an adequate start-up time. As soon as the buyer cannot be expected to bear the delay on delivery or service, he is eligible to withdraw from contract by immediate written declaration.

(5) BREWFORCE Brautechnik GmbH is only allowed for partial deliveries if

- partial delivery is usable for the seller according to the contractual purpose,
- delivery of the remaining ordered goods is assured and



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– partial delivery causes no extensive additional expenditure or additional costs for the buyer (except the buyer intends to bear these costs)

(6) In the case BREWFORCE Brautechnik GmbH is behind the schedule with delivery or service, or delivery or service becomes impossible, independent from the reason, liability of the seller is limited according to §8 of these general terms.

§ 5 Place of fulfillment, delivery, packing, transfer of risk, acceptance

(1) Place of fulfillment of all obligations from the contract is Brügggen-Bracht, as far as no other place is determined.

(2) Kind of transport and packing are subject to the obligatory discretion of the seller.

(3) Risk passes latest with commissioning of goods (applicable is start of loading) to the forwarder or third parties determined for transport or export to the buyer. This is valid even in case of partial delivery or if the seller took over other services (e.g. transport). Is delivery or commissioning delayed, caused by a reason from the sphere of the buyer, the risk passes to the buyer on the day BREWFORCE Brautechnik GmbH declares readiness for shipment and informs the buyer accordingly.

(4) The shipment will be covered against theft, breakage-, transport-, fire- and water risk only on demand and cost of the buyer.

§ 6 Warranty

(1) Warranty is one year after delivery/readiness for dispatch or if acceptance is agreed, one year from acceptance. Wear and tear or damages because of operation failures are excluded.

(2) The delivered goods have to be accurately inspected immediately after delivery to the buyer or determined third parties. They are accepted if BREWFORCE Brautechnik GmbH does not receive a claim according to apparent defects, visible on an accurate inspection, in written form immediately, latest within 3 working days from delivery. On demand of the seller the damaged goods to be sent back to the seller carriage free.

(3) In case of quality defects BREWFORCE Brautechnik GmbH is obliged and allowed to choose between amendment or replacement. In case of failure of the supplementary performance within an appropriate time frame the buyer can withdraw from the contract or decrease the purchase price adequately.

(4) Is the quality defect caused by BREWFORCE Brautechnik GmbH, the buyer can claim for compensation according to the regulations in §8.

(5) Warranty/guarantee does not apply if the buyer modifies the goods or let them modify by third parties without allowance from BREWFORCE Brautechnik GmbH and which makes the supplementary performance impossible or more difficult. The buyer has to bear the additional costs for the supplementary performance in any case.

(6) In case of delayed payment of the buyer BREWFORCE Brautechnik GmbH has the right to deny any warranty.

(7) In case of delivery of used goods, no warranty will apply. Missing protections against accident the buyer has to install by himself.

§ 7 Trademark rights

(1) BREWFORCE Brautechnik GmbH is responsible for the goods to be free from trademark rights or intellectual property rights of third parties according to § 7. Each party will inform the other contract party immediately if there are any claims against him according to breaching these rights.

(2) In the case the goods breach an intellectual property right of a third party, the buyer will modify the delivered goods on his own expenses that no third party rights will be breached. The delivered goods have still to fulfill the usage stated in the contract. The seller is also eligible to supply the right of exploitation to the buyer. If the seller is not able to get the rights within a defined period, the buyer has the right to withdraw from the contract or to claim for compensation. Possibly claims refer to the regulations stated in §8 of these general terms of sale.

(3) In case of breaching rights by products of other suppliers delivered by the seller, the seller can claim against the manufacturers and pre-suppliers at the costs of the seller or convey them to the buyer.

§ 8 Liability for compensations caused by fault

(1) Liability of BREWFORCE Brautechnik GmbH for compensation, irrespective of legal basis, especially of impossibility, delay, insufficient or wrong delivery, breach of contract, breach of obligations and tortuous act, is limited to the regulations to this §8.

(2) Limitations of this §8 are not valid for liability of the seller for deliberate action, for guaranteed characteristics of state, violation of life, the body or health or according to the product liability.

(3) BREWFORCE Brautechnik GmbH is not liable in case of willful negligence of its organs, legal representatives, employees or other assistants, as far as it is no essential contractual obligation. Essential contractual is the obligation for punctual, free from defects delivery and installations as well as consulting-, protection-and care obligations which shall enable the contractual usability of the goods to the buyer or have the purpose to provide protection of physical condition or life of personnel of the buyer or third or property of the buyer.

(4) As far as BREWFORCE Brautechnik GmbH is liable according the previous parts of this paragraph, this liability is limited to damages, which are foreseeable on contract conclusion as possible effect of a contract breach or according to the known circumstances had to be foreseen. Indirect damages and consequential damages, which are result of defects of the delivered goods, are only eligible for compensation as far as such damages are typically on conventional use of the delivered goods. Parts which have to be replaced under guarantee are provided without charge however the installation will be charged.

(5) The previous liability exclusions and limitations are valid in the same scope in favor of the organs, legal representatives, employees and other assistants of BREWFORCE Brautechnik GmbH.

§ 9 Retention of title

(1) The following agreed retention of title used to protect all existing current and future claims of BREWFORCE Brautechnik GmbH against the buyer from existing delivery contracts.

(2) The goods delivered by BREWFORCE Brautechnik GmbH to the buyer remains property of BREWFORCE Brautechnik GmbH until complete payment of all claims.

The goods and also the following mentioned goods under retention of title are called reserved goods in the following.

(3) The buyer stores the reserved goods with no costs for BREWFORCE Brautechnik GmbH.

(4) The buyer is eligible to sell the reserved goods upon liquidation (following part 8) in proper course of business. Pledging and assignment as security are not allowed.

(5) In case of resale of the reserved goods the buyer at this early stage assigns by way of security the arising claims against the purchaser – in case of common ownership of BREWFORCE Brautechnik GmbH on the



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reserved good according to co-ownership share – to BREWFORCE Brautechnik GmbH. The same applies for claims which replace the reserved goods or arise in regard to the reserved goods, e.g. insurance claims or claims in tort in case of loss or destruction. BREWFORCE Brautechnik GmbH authorizes the buyer revocable, to collect the claims in his own name in account of BREWFORCE Brautechnik GmbH. BREWFORCE Brautechnik GmbH is only permitted to revoke the collection authorization in case of utilization, reserved good according to co-ownership share – to BREWFORCE Brautechnik GmbH -. The same applies for claims which replace the reserved goods or arise in regard to the reserved goods, e.g. insurance claims or claims in tort in case of loss or destruction. BREWFORCE Brautechnik GmbH authorizes the buyer revocable, to collect the claims in his own name in account of BREWFORCE Brautechnik GmbH. BREWFORCE Brautechnik GmbH is only permitted to revoke the collection authorization in case of utilization.

(6) If third parties take hold of the reserved good, in particular by garnishment, the buyer has to advise immediately of the property of BREWFORCE Brautechnik GmbH and also to inform BREWFORCE Brautechnik GmbH to enable the assertion of the property rights. As far as the third party is not able to refund the arising juridical or extrajudicial expenses to BREWFORCE Brautechnik GmbH, the buyer therefore is liable to the seller.

(7) BREWFORCE Brautechnik GmbH will release the reserved goods as well as replacing goods or claims accordingly, as far as their value will increase the amount of the claims for more than 20%.

(8) If BREWFORCE Brautechnik GmbH withdraws from contract, caused by buyer's action contrary to contract – particularly delay in payment – BREWFORCE Brautechnik GmbH is eligible to demand the reserved goods.

§ 10 Place of Jurisdiction / Choice of Law / Severability Clause / Notice of Confidentiality

(1) According to BREWFORCE Brautechnik GmbH place of jurisdiction for all possibly disputes arising from the business connections between seller and buyer is Nettetal or domicile of the buyer. For complaints against BREWFORCE Brautechnik GmbH Nettetal is the exclusive place of jurisdiction. Mandatory legal regulations about exclusive jurisdiction remain unaffected from this regulation.

(2) The connection between BREWFORCE Brautechnik GmbH and the buyer are exclusively subject to the law of the Federal Republic of Germany with exclusion of the UN convention on contracts for the international sale of goods from April 11th, 1980 (CISG).

(3) If and to the extent that any provision of this contract or any future provision of it shall be deemed void or infeasible or lose its validity or feasibility, this shall not affect the validity of the other provisions of this contract. The same shall apply if the contract is found to contain omissions. The invalid, infeasible, or incomplete provision or provisions shall be replaced with appropriate provisions that, insofar as legally possible, come closest to what the parties intended or would have intended in accordance with the spirit and purpose of the contract if they had taken the point into consideration when they concluded the contract or had contemplated such a provision at a later time.

(4) Notice: The buyer takes note that the seller stores data from this contract according to the Federal Data Protection Act for the purpose of data handling and remains the right to transmit the data, if necessary for the contract, to third parties (e.g. insurance companies).