

## **General Conditions of Sale and Delivery**

### **Backer ELC AG, Teufenthal, for electrical heating elements**

#### **1. Scope**

- 1.1 The following conditions of sale and delivery are binding if they are declared applicable in the offer or the confirmation of order. Further or other conditions are only valid to the extent to which they are stated in the confirmation of order, or are confirmed in writing by the supplier.

#### **2. Offer**

- 2.1 Offers which do not contain a term of acceptance are not binding.
- 2.2 Changes in design, dimensions and materials resulting from the continuing development of products and production technology are reserved.
- 2.3 All documents such as samples, drawings and descriptions etc. remain the intellectual property of the supplier and may not be duplicated or copied or communicated or otherwise made available to any third party without the written approval of the supplier.

#### **3. Conclusion of Contract**

- 3.1 The supply contract shall be deemed to have been concluded if the supplier has confirmed in writing the acceptance of the verbal or written orders or agreements.
- 3.2 Order changes can only be effected with the approval of the supplier. If, exceptionally, orders which already are in production have to be modified, any additional costs resulting there from go to the expense of the purchaser.
- 3.3 The supplier is not liable for discrepancies in sizes and measurements contained in the purchaser's documents.

#### **4. Scope of delivery**

- 4.1 With regard to the scope and performance of the delivered goods, the confirmation of order is decisive. Goods and services which are not contained therein will be charged for additionally.
- 4.2 The supplier reserves his right to make price adjustments due to salary increases and material costs occurring after the conclusion of the contract.
- 4.3 For series orders, the supplier reserves his right to increase or reduce deliveries by up to 10%.

#### **5. Prices and terms of payment**

- 5.1 The prices are calculated net ex works of the supplier, without packaging. All additional costs, such as e.g. freight, insurance, approvals and certificates are at the expense of the purchaser. Also, the purchaser has to bear all kinds of taxes, charges and customs duties.
- 5.2 Payments have to be effected within 30 days after the date of the invoice, without any deductions.
- 5.3 The articles of delivery remain the property of the supplier until payment has been made. The purchaser is obliged to participate in measures which are required for the protection of supplier's property.
- 5.4 Complaints regarding the delivery do not entitle the purchaser to refuse due payment; the purchaser is, however, entitled to the rights laid down in paragraphs. 8.2 and 10.1.

#### **6. Term of delivery**

- 6.1 The agreed delivery dates apply subject to unforeseeable impediments as well as force majeure, war, political commotion, transport and delays in deliveries from subcontractors, strikes within our own company or at subcontractors. The occurrence of such an event substantiates a corresponding extension of the delivery period.
- 6.2 The purchaser has no right to compensation or termination of the contract because of a delay in delivery.

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## 7. Transportation and transfer of perils

- 7.1 Special requests concerning shipment and insurance have to be notified to the supplier in a timely manner. Transportation is carried out at the expense and risk of the purchaser. Complaints in connection with transportation have to be addressed by the purchaser to the carrier responsible immediately upon receipt of the delivery or freight documents and have to be confirmed by recorded facts.
- 7.2 The latest point at which benefits and risks pass over to the purchaser is on the departure of the delivery ex works, even if the delivery is carried out DDP, DAP, CPT or under any similar provision. Insurance against damage of any kind is the responsibility of the purchaser.

## 8. Examination and acceptance of the delivery

- 8.1 The purchaser has to make any possible notification of defects or complaints in writing and well founded within 8 days after receipt of the delivery. If he refrains from doing this, the delivery is regarded as being approved.
- 8.2 If, upon receipt, the delivery proves not to be as defined in the contract, the purchaser has immediately to give the supplier the opportunity to repair the deficiencies by a method of his choice as soon as possible or has to provide for a replacement.  
Any further claims by the purchaser resulting from deficiencies in the goods delivered, in particular for compensation and termination of the contract is excluded.

## 9. Delay in acceptance by the purchaser

- 9.1 In the case of delays in the acceptance of goods which are ready for delivery, these goods will be stored at the purchaser's risk and expense; for this, he will be charged an appropriate storage fee.
- 9.2 If the acceptance cannot take place within a period of six days, the supplier is entitled to invoice the goods, whereby normal payment conditions will apply. The assertion of further or other rights in accordance with the Swiss Code of Obligations remains reserved.

## 10. Warranty

- 10.1 The warranty period starts on the day of delivery and lasts 1 year. The supplier guarantees correct quality of materials, professional manufacture and correct functioning of the supplied heating elements in such a manner, that, in the case of a notification of defect, which has been claimed in due time and has been well founded, he will replace the rejected parts at its own expense or correct them at its own discretion. For this purpose, the rejected parts are to be sent to the factory free of charge. Replaced parts become property of the supplier. Every further right of the purchaser, especially of compensation, is excluded.
- 10.2 All guarantees are excluded for all heating elements, that
- were badly stored and damaged by humidity
  - were employed under other operating conditions than those stated by the supplier
  - demand custom production and have to be manufactured outside our manufacturing standards
  - were subject to normal wear and tear
  - were, generally, inappropriately handled or employed, or were connected to inappropriate supply voltages
  - were repaired or changed without the consent of the supplier
  - suffered corrosion damage

## 11. Place of fulfilment, jurisdiction and applicable law

- 11.1 **Place of fulfilment and jurisdiction for purchaser and supplier is the domicile of the supplier.**
- 11.2 **The legal relationship is subject to Swiss law.**

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