

1. Scope of Application

The following terms and conditions of sale are applicable to all sales of products or services, and all quotations, order acknowledgements, and invoices from Berrang Inc. ("Berrang") and to all purchase orders from Berrang's customers ("buyer"). All Berrang's services and deliveries are provided exclusively in accordance with these Terms of Sale, unless agreed otherwise in writing. Conflicting, varying, or additional business terms remain ineffective as to all sales, even in the event Berrang has not expressly objected to such terms. Berrang's Terms of Sale also apply in the event Berrang unconditionally carries out the buyer's delivery despite notice of conflicting or additional terms provided by the buyer.

2. Quotes

Berrang's quotes are always without obligation and subject to change. Berrang prepares invoices with prices effective on the date of shipment to the carrier. Prices are quoted without Value Added Tax, which, if applicable, will be applied separately at the tax rate in effect at the date of shipment.

Should prices for wages, material or other costs increase during production, Berrang reserves the right to adjust the agreed upon prices accordingly.

All orders require Berrang's written confirmation to become effective. Electronic mail and documents shall be considered effective for purposes of written confirmation of orders from Berrang. Invoicing or delivery is deemed to be acknowledgement.

3. Delivery Time

Delivery dates and times provided by Berrang are approximate and without obligation; they are calculated from the date of order acknowledgement. If technical questions remain to be clarified at the time of order confirmation, the quoted delivery times do not commence until all technical questions have been clarified completely and to Berrang's satisfaction.

Meeting Berrang's delivery commitment also requires the buyer to fulfill its duty to co-operate in a proper and timely manner. Partial deliveries are permitted.

In the event a cause or event for which Berrang is not responsible, including without limitation, any act of god or delay caused by any governmental agency or customs agency complicates, that delays or makes it impossible for Berrang to carry out an accepted order, Berrang is entitled to postpone the delivery or remainder of the delivery by the duration of the delay, or to withdraw in whole or in part from the contract. If Berrang is responsible for the delay in delivery, the ordering party's exclusive remedy shall be to withdraw from the contract if the delivery has not been made within a reasonable grace period of at least 14 working days. Unless otherwise arranged, the buyer must accept call-off goods within 10 weeks after the ordering date at the latest. If the buyer fails to do so, Berrang is entitled, after granting a grace period of 2 weeks, to invoice the goods without prejudice to any of its other rights.

Any claim for damages made by the buyer due to delayed delivery is subject to the restrictions in paragraph number 9 below.

4. Shipping

The buyer shall be responsible for all costs of shipping and bears all risk of damage or loss related to the goods purchased from Berrang (Incoterms 2000 EXW the respective shipping warehouse), even in the case of a carriage-paid delivery (CPT destination). Berrang shall have no liability for any physical loss of or damage to the goods purchased by the buyer. Berrang does not provide any insurance against loss or damage for the benefit of the buyer.

Returned goods will only be accepted upon written consent of Berrang, to be provided or withheld at Berrang's sole discretion.

5. Packaging

To the extent permitted by law, Berrang does not accept returned packaging material.

6. Retention of Title

Berrang retains ownership of the property it delivers as well as of the new property resulting, for instance, from processing the delivered goods until all due obligations of the buyer have been met.

In this respect all deliveries are regarded as a single delivery transaction. The retained title to the property is considered as security for any balance due from the buyer.

If the buyer incorporates the goods to be purchased into other items, and if the other object must be regarded as the main component, the buyer must grant Berrang proportionate co-ownership, provided that the main component belongs to the buyer. If the buyer sells the delivered goods as intended, the buyer thereby immediately transfers any claims against its buyers arising from the sale along with all ancillary rights to Berrang until all of Berrang's receivables have been paid in full by the buyer.

At Berrang's request, the buyer shall notify any third-party buyers of its assignment of claims, and the buyer will provide to Berrang the information and deliver the related documents required for Berrang to enforce its rights.

Berrang will release the withheld securities provided that their value exceeds the receivables to be secured by more than 20% in total.

7. Payment

Berrang's invoices are due for payment within 30 days net from the date of invoice. Checks are accepted subject to their redemption and only on account of performance. Buyer agrees to pay interest on overdue invoices at the rate of 1-1/2% (one and a half percent) per month, but not higher than the highest rate permitted by law. If buyer fails to make any payment as required, buyer agrees to indemnify Berrang for all costs and expenses, including reasonable attorney fees, court costs, and associated expenses incurred by Berrang.

The acceptance of checks does not release Berrang's claims, unless expressly agreed upon by Berrang. Should reasonable doubt arise for any reason whatsoever concerning the buyer's solvency or its creditworthiness, then all amounts due from the buyer to Berrang shall immediately become due and payable, notwithstanding other agreements to the contrary, if any. In such instance, Berrang shall have the right to withhold agreed upon deliveries and services not yet performed, or only to perform deliveries and services upon immediate cash payment, or to withdraw in whole or in part from existing contracts, until all overdue receivables have been paid.

Only claims that are uncontested by Berrang or legally binding may be offset against Berrang's claims. In the event of suspected insolvency or lack of creditworthiness to be determined by Berrang in its sole discretion, the buyer waives any right of continued possession or retention of Berrang's goods or services, notwithstanding anything to the contrary herein.

In such instance, the buyer grants Berrang the right to take possession of all goods for which the buyer has failed to pay.

Other terms of payment must be mutually agreed in writing.

8. Warranty

a. General

Purchase orders are performed according to written specifications of the buyer and the related drawings.

If non-conforming goods are shipped, Berrang shall be only liable, at its sole discretion, to replace the goods, re-work the goods, or grant a credit to the buyer

upon return of the goods. Any claim to damages by the buyer due to non-conforming

goods is subject to limitations of paragraph number 9 below.

The goods delivered shall be considered to be in compliance with the contract concerning their type and quantity, unless the buyer informs Berrang in writing of any deviations from the terms of the contract within one week from the day of delivery. The delivery of specialized products or goods to the buyer with a quantity within ten percent (10%) of the quantity set forth in the purchase order shall be considered to be in conformity with the purchase order and any ancillary agreements.

The buyer must inspect the goods for non-conformances immediately after receipt, insofar as this is feasible in the regular course of business, and to immediately advise Berrang of any non-conforming goods discovered by the buyer. Any warranty from Berrang to the buyer shall apply only to those goods for which Berrang has received payment in full from the buyer.

Subsequent notices of non-conforming goods will only be considered by Berrang, if they relate to latent defects.

The buyer shall provide warranty claims to Berrang in writing, specifying the detected defect in a verifiable form. The warranty period is 12 months from the date of delivery to the carrier.

The use and processing of goods is solely the buyer's responsibility. Berrang's technical consulting and oral and written description of the products is considered only as non-binding information and does not exempt the buyer from testing the goods for its suitability for the intended purpose or process.

b. Special Applications

Since Berrang does not have an overall knowledge of the application and the requirements of the application for which the buyer purchases Berrang's goods, Berrang urges the buyer to consult the available technical standards concerning the applicability of its order and to sufficiently test the parts.

Any special or additional requirements related to quality inspections will be effective only in the event that Berrang and the buyer have agreed in writing to such requirements prior to Berrang's agreement to sell goods to the buyer.

The customer bears the risk for any damages out of incidents resulting from the unsuitable use of goods provided by Berrang.

Berrang will not accept any liability for any misuse of its goods, and the buyer therefore agrees to release, hold harmless, and indemnify Berrang from any third-party claims, insofar as incidents can be attributed to the unsuitable application of the Berrang's goods delivered to buyer.

c. Hydrogen Embrittlement

During production, hydrogen atoms may penetrate the structure of steel fasteners, which may cause hydrogen induced cracking or hydrogen induced embrittlement. A critical combination of material-, production- and coating-related variables (see DIN 50969-1) may lead to these damages. All high strength steel fasteners are susceptible to hydrogen induced cracking and even failure of the part.

This is a risk which can currently not be excluded despite state-of-the-art engineering.

The risk for such embrittlement and cracking is borne exclusively by the buyer. Berrang is not liable for parts for which hydrogen embrittlement induced failure can be excluded. Failure caused by hydrogen embrittlement will therefore not lead to any warranty or liability claims. The buyer releases Berrang from any third-party claims related to damages resulting from hydrogen embrittlement, and the buyer agrees to hold harmless, indemnify, protect and defend Berrang from such third-party claims.

d. Parts with Special Technical Delivery Conditions

Parts with special technical delivery conditions must be explicitly written and designated as such in the inquiry and in the purchase order from the buyer. Technical delivery conditions or instructions provided to Berrang only by means of a drawing or as part of enclosed conditions or by any other means shall have no effect. Unless explicitly written in the buyer's order, Berrang does not guarantee the delivery of goods in accordance with the special technical delivery conditions.

9. Liability

Unless other liability regulations are specified in another part of these Terms of Sale, Berrang is only liable as follows for damages to the buyer which directly or indirectly result from a non-conforming shipment or for any other cause that may be attributed to Berrang.

Berrang shall not be liable, and buyer waives all claims against Berrang, for incidental, special, punitive or consequential damages, lost profits or commercial losses, whether or not based upon Berrang's negligence or breach of warranty or strict liability in tort or any other cause of action. Berrang shall not be liable to buyer for any loss, damage, or injury to persons or property resulting from the handling, storage, transportation, resale, or use of its products in manufacturing processes, or in combination with other substances, or otherwise. In no event will Berrang's liability under this agreement or in connection with the sales of products by Berrang exceed Berrang's purchase price of the specific products or services as to which the claim is made.

Liability to pay damages is excluded insofar as the buyer itself has efficiently limited his liability towards his customer. The buyer must attempt to negotiate a limitation of liability in a legally permissible amount also in favor of Berrang.

Claims of the buyer are excluded if the damage can be attributed to a violation of operation, maintenance and assembly instructions, unsuitable or improper use, incorrect or negligent treatment of the parts supplied, normal wear and tear of the parts, or incorrect repair.

When determining the amount of the claim to be compensated by Berrang, the following factors are to be taken into consideration in favor of Berrang: Berrang's economic condition; the scope and duration of business relations; the comparative causation and / or of fault of the buyer according to § 254 BGB and any unfavorable assembly conditions related to the part. Specifically, the amount of the compensation, costs and expenditures to be assumed by Berrang must be in proportion to the value of the supplied part.

Berrang's liability – regardless of the cause of action – is limited to damages which Berrang or its vicarious agent caused deliberately, by gross negligence or by ordinary negligence in violation of obligations essential to the fulfillment of the purpose of the contract.

If obligations essential to the fulfillment of the contract were violated by ordinary negligence, the amount of Berrang's liability is limited to damages typical to comparable type of business and which were foreseeable at conclusion of the contract or at the latest with the beginning of the violation of obligations.

Claims for damages pursuant to any applicable products liability act, arising out of any breach of warranty of quality, or due to harm to life, body or health, remain unaffected.

The preceding provisions do not change the burden of proof to Berrang's disadvantage.

10. Cancellation

Once Berrang has either accepted a purchase order or has begun taking actions with respect to such purchase order, such purchase order can not be cancelled, terminated or modified by buyer in whole or in part except with Berrang's consent in writing and then only upon terms and conditions to be agreed upon which shall include protection of Berrang against all losses. Buyer shall indemnify Berrang for any costs incurred, including material and labor cost, in connection with any purchase order that buyer desires to cancel, terminate or modify.

11. Legal venue and choice of law

Any dispute arising out of or related to this agreement, shall be governed by and construed according to the laws of Germany and litigated exclusively in Mannheim, Germany.

The parties hereby agree to the exclusive jurisdiction and venue of such courts.

In any case, only German law is applicable to any dispute between the buyer and Berrang, excluding those standards referring to foreign law. The application of standardized laws governing the international sale of movable property and governing the conclusion of international contracts of sale of movable property – both dated 17 July 1973 – as well as the United Nations Convention of 11.04.1980 on contracts for the international sale of goods, is excluded, as well as any consecutive or related regulations.

In the event a court of competent jurisdiction determines that the laws of the United States of America apply to any dispute or legal proceeding between Berrang and the buyer, Berrang and the buyer agree and consent to the venue of Greenville County, South Carolina, as the exclusive venue for any legal proceedings and the laws of the state of South Carolina as the governing laws.

12. Clerical errors

Berrang reserves the right to correct all clerical errors in any quotation, order acknowledgment or invoice.

13. Concluding provisions

If any provision or any part of a provision of these Terms of Sale shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable legal requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of these Terms of Sale, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

If possible, the invalid provision shall be amended, converted or interpreted in such a way that it fulfills the business purpose that was intended by it, under consideration of current law.

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