

Terms and Conditions for Machines and Installations

1. General

1.1. The contract shall be deemed to have been entered into upon receipt of written acknowledgement by Beck Automation AG stating its acceptance of the order.

Tenders which do not stipulate an acceptance period shall not be binding.

1.2. These general conditions of supply shall be binding if declared applicable in the tender or in the order acknowledgement. Any conditions stipulated by the customer which are in contradiction to these general conditions of supply shall only be valid if expressly acknowledged by Beck Automation AG in writing.

1.3. All agreements and legally relevant declarations of the parties to the contract must be in writing in order to be valid. Declarations in text form which are transmitted by or recorded on electronic media will be equated with written declarations when specifically so agreed by the parties.

1.4. Should a provision of these general conditions of supply prove to be wholly or partly invalid, the parties to the contract shall jointly seek an arrangement having a legal and economic effect which will be as similar as possible to the invalid provision.

2. Scope of supplies and services

The supplies and services are exhaustively specified in the order acknowledgement and in appendices thereto. Beck Automation AG shall be entitled to make any changes which lead to improvements provided such changes do not result in a price increase.

3. Technical documents

3.1. Unless otherwise agreed upon, brochures and catalogues are not binding. Data provided for in technical documents are only binding in so far as having been expressly stipulated as such.

3.2. Each party to the contract retains all rights to technical documents provided to the other. The party receiving such documents recognises these rights and shall – without previous written consent of the other party – not make these documents available to any third party, either in whole or in part, nor use them for purposes other than those for which they were handed over.

4. Regulations in force in the country of destination and safety devices

4.1. The customer shall, at the latest when placing the order, draw the attention of Beck Automation AG to the standards and regulations applicable to the execution of the supplies and services, to the operation of the plant as well as to the health and safety of personnel.

4.2. Unless otherwise agreed upon, the supplies and services shall comply with those standards and regulations at the place of business of the customer about which Beck Automation AG has been informed under Clause 4.1. Additional or other safety devices shall be supplied to the extent as having been expressly agreed upon.

5. Prices

5.1. Unless otherwise agreed upon, all prices shall be deemed to be net ex works, excluding packing, in freely available Swiss Francs, Euros or US Dollars without any deduction whatsoever.

Any and all additional charges, such as, but not limited to, freight charges, insurance premiums, fees for export, transit, import and other permits, as well as for certifications, shall be borne by the customer. Likewise, the customer shall bear any and all taxes, fees, levies, customs duties and the like which are levied out of or in connection with the contract, or shall refund them to Beck Automation AG against adequate evidence in case Beck Automation AG is liable for them.

Time based quotations in tenders and order acknowledgements shall apply on condition that the journey to the customer, works at the customer's site and the homeward journey will take place between Monday and Saturday, with no holidays included. Travel and working time on Sundays and holidays shall be invoiced with a 50 % surcharge.

5.2. In addition, an appropriate price adjustment shall apply in case

- the delivery time has been subsequently extended due to any reason stated in Clause 8.3, or
- the nature or the scope of the agreed supplies or services has changed, or
- the material or the execution has undergone changes because any documents furnished by the customer were not in conformity with the actual circumstances, or were incomplete.

6. Terms of payment

6.1. Payments shall be made by the customer at the domicile of Beck Automation AG according to the agreed terms of payment, without any deduction for cash discount, expenses, taxes, levies, fees, duties, and the like.

Unless otherwise agreed upon, the price shall be paid in the following instalments:

- 40 percent as advance payment within one month after receipt of the order acknowledgement by the customer,
- 50 percent prior to shipment ex works,
- the remainder within one month after installation or 60 days after shipment, whichever occurs first.

Payment shall be deemed to be effected as far as Swiss Francs, Euros or US Dollars have been made freely available to the supplier at the domicile of Beck Automation AG. In case payment by bills of exchange is agreed, the customer shall pay the cost of discounting of such bills, bill of exchange taxes and collection charges.

6.2. The dates of payment shall also be observed if transport, delivery, erection, commissioning or taking over of the supplies or services is delayed or prevented due to reasons beyond the control of Beck Automation AG, or if unimportant parts are missing, or if postdelivery work is to be carried out without the supplies being prevented from use.

6.3. If the advance payment or the contractually agreed securities are not provided in accordance with the terms of the contract, Beck Automation AG shall be entitled to adhere to or to terminate the contract, and shall in both cases be entitled to claim damages. If the customer, for any reason whatsoever, is in delay with a further payment, or if Beck Automation AG is seriously concerned that it will not receive payments in total or in due time because of circumstances having taken place since entering into the contract, Beck Automation AG, without being limited in its rights provided for by law, shall be entitled to refuse the further performance of the contract and to retain the supplies ready for dispatch until new terms of payment and delivery will have been agreed and until Beck Automation AG will have received satisfactory securities. If such an agreement cannot be reached within a reasonable time, or in case Beck Automation AG does not receive adequate securities, Beck Automation AG shall be entitled to terminate the contract and to claim damages.

6.4. If the customer delays in the agreed terms of payment, it shall be liable, without reminder, for interest with effect from the agreed date on which the payment was due at a rate depending on the terms prevailing at the customer's domicile, but not less than 4 percent over the current discount rate of the Swiss National Bank. The right to claim further damages is reserved.

7. Reservation of title

Beck Automation AG shall remain the owner of all supplies until having received the full payments in accordance with the contract.

The customer shall cooperate in any measures necessary for the protection of the title of Beck Automation AG. In particular upon entering into the contract it authorises Beck Automation AG to enter or notify the reservation of title in the required form in public registers, books or similar records, all in accordance with relevant national laws, and to fulfill all corresponding formalities, at customer's cost.

During the period of the reservation of title, the customer shall, at its own cost, maintain the supplies and insure them for the benefit of Beck Automation AG against theft, breakdown, fire, water and other risks. It shall further take all measures to ensure that the title of Beck Automation AG is in no way prejudiced.

8. Delivery time

8.1. The delivery time shall start as soon as the contract is entered into, all official formalities such as, but not limited to, import, export, transit and payment permits have been completed, payments due with the order have been made, any agreed securities given and the main technical points and documents settled. The delivery time shall be deemed to be observed if by that time Beck Automation AG has sent a notice to the customer informing that the supplies are ready for dispatch.

8.2. Compliance with the delivery time is conditional upon customer's fulfilling of its contractual obligations.

8.3. The delivery time is reasonably extended:

- a) if the information required by Beck Automation AG for performance of the contract, such as product specifications or project related technical data (according to order confirmation and requirement specification), is not received in time, or if the customer subsequently changes it thereby causing a delay in the delivery of the supplies or services;
- b) if hindrances occur which Beck Automation AG cannot prevent despite using the required care, regardless of whether they affect Beck Automation AG or the customer or a third party. Such hindrances include, but shall not be limited to, epidemics, mobilisation, war, revolution, serious breakdown in the works, accidents, labour conflicts, late or deficient delivery by subcontractors of raw materials, semifinished or finished products, the need to scrap important work pieces, official actions or omissions by any state authorities or public bodies, natural catastrophes, acts of God;
- c) if the customer or a third party is behind schedule with work it has to execute, or with the performance of its contractual obligations, in particular if the customer fails to observe the terms of payment.

8.4. The customer shall be entitled to claim liquidated damages for delayed delivery in so far as it can be proved that the delay has been caused through the fault of Beck Automation AG and that the customer has suffered a loss as a result of such delay. If substitute material can be supplied to accommodate the customer, the latter is not entitled to any damages for delay.

Damages for delayed delivery shall not exceed 1/2 per cent for every full week's delay and shall in no case whatsoever altogether exceed 5 per cent of the contract price of the part of the supplies in delay. No damages at all shall be due for the first two weeks of delay.

After reaching the maximum liquidated damages for delayed delivery, the customer shall grant Beck Automation AG a reasonable extension of time in writing. If such extension is not observed for reasons within the control of Beck Automation AG, the customer shall have the right to reject the delayed part of the supplies or services. If a partial acceptance is economically not justified on the part of the customer, the latter shall be entitled to terminate the contract and to claim refund of the money already paid against return of the deliveries supplied.

8.5. In case a specific date instead of a delivery period is fixed, such date shall correspond to the last day of a delivery period; Clauses 8.1 to 8.4 apply by analogy.

8.6. Any delay of the supplies or services does not entitle the customer to any rights and claims other than those expressly stipulated in this Clause 8. This limitation does, however, not apply to unlawful intent or gross negligence on the part of Beck Automation AG, but does apply to unlawful intent or gross negligence of persons employed or appointed by Beck Automation AG to perform any of its obligations.

9. Packing

Packing shall be charged for separately by Beck Automation AG and shall not be returnable. However, if it is declared as property of Beck Automation AG, it shall be returned by the customer, carriage paid, to the place of dispatch.

10. Passing of benefit and risk

10.1. The benefit and the risk of the supplies shall pass to the customer by the date of their leaving the works.

10.2. If dispatch is delayed at the request of the customer or due to reasons beyond the control of Beck Automation AG, the risk of the supplies shall pass to the customer at the time originally foreseen for their leaving the works. From this moment on, the supplies shall be stored and insured on the account and at the risk of the customer.

11. Forwarding, transport and insurance

11.1. Beck Automation AG shall in time be notified of special requirements regarding forwarding, transport and insurance. The transport shall be at customer's expense and risk.

Objections regarding forwarding or transport shall upon receipt of the supplies or of the shipping documents be immediately submitted by the customer to the last carrier.

11.2. The customer shall be responsible for taking insurance against risks of any kind.

12. Inspection and taking over of the supplies and services

12.1. As far as being normal practice, Beck Automation AG shall inspect the supplies and services before dispatch. If the customer requests further testing, this has to be specially agreed upon and paid for by the customer.

12.2. The customer shall inspect the supplies and services within the specified period and shall immediately notify Beck Automation AG in writing of any deficiencies. If the customer fails in doing so, the supplies and services shall be deemed to have been taken over.

12.3. Having been notified of deficiencies according to Clause 12.2, Beck Automation AG shall as soon as possible remedy them, and the customer shall give Beck Automation AG the possibility of doing so. After remedy of such deficiencies, a taking over test according to Clause 12.4 will be carried out at the request of the customer or of Beck Automation AG.

12.4. Subject to Clause 12.3 the carrying out of a taking over test as well as laying down the conditions related thereto need a special agreement. In the absence of such agreement the following shall apply:

- Beck Automation AG shall advise the customer in time of the execution of the taking over test so that the customer or its representative can attend.
- A taking over report shall be prepared which shall be signed by both the customer and Beck Automation AG or by their representatives. Such report shall either state that the taking over has taken place, or that it has taken place under reservations, or that the customer has refused the acceptance. In the last two cases, the deficiencies shall be listed individually in the report.

In case of insignificant deficiencies, in particular those which do not substantially hinder the efficient functioning of the supplies or services, the customer shall not be entitled to refuse the acceptance of the supplies or services and the signature of the taking over report. Beck Automation AG shall remedy such deficiencies without delay.

- In case of important deviations from the contract or of serious deficiencies the customer shall give Beck Automation AG the possibility of remedying these within a reasonable time. Thereafter a further taking over test shall take place.

If during this test important deviations from the contract or serious deficiencies appear again, the customer shall be entitled to claim either a price reduction or an indemnity or other compensations from Beck Automation AG, provided this has been agreed before. If, however, the deviations and deficiencies appearing during such test are of such importance that they cannot be remedied within a reasonable time and provided the supplies and services cannot be used for their specified purpose, or such use is considerably impaired, then the customer shall be entitled to refuse acceptance of the defective part or, if partial acceptance is economically not justified for it, to terminate the contract. In such case Beck Automation AG can only be held liable to reimburse the sums which have been paid to it for the parts affected by the termination.

12.5. Taking over shall also be deemed completed

- if the taking over test cannot be carried out on the date provided for due to reasons beyond the control of Beck Automation AG;
- if the customer refuses the acceptance without being entitled to do so;
- if the customer refuses to sign the taking over report prepared in accordance with Clause 12.4;
- as soon as the customer uses the supplies or services.

12.6. Deficiencies of any kind in supplies or services shall not entitle the customer to any rights and claims other than those expressly stipulated in Clauses 12.4 and 13 (guarantee, liability for defects).

13. Guarantee, liability for defects

13.1. Guarantee period

The guarantee period is 12 months. It starts when the supplies leave the works or at the taking over of the supplies and services should such taking over have been agreed upon before, or, if Beck Automation AG undertakes the erection, upon completion thereof. If dispatch or taking over or erection are delayed due to reasons beyond control of Beck Automation AG, the guarantee period shall end not later than 18 months after notification that the supplies are ready for dispatch.

For replaced or repaired parts the guarantee period starts anew and lasts 12 months after replacement or completion of the repair or taking over, but not longer than the expiry of a period being double to the guarantee period stipulated in the preceding paragraph.

The guarantee expires prematurely if the customer or a third party undertakes inappropriate repairs, modifications not authorised by Beck Automation AG (execution by non-authorised maintenance personnel) or commissioning works or if the customer, in case of a defect, does not immediately take all appropriate steps to mitigate the damage and give Beck Automation AG the possibility of remedying such defect.

13.2. Liability for defects in material, design and workmanship

Upon written request of the customer, Beck Automation AG undertakes at its choice to repair or replace as quickly as possible any parts of the supplies by Beck Automation AG which, before the expiry of the guarantee period, are proved to be defective due to bad material, faulty design or poor workmanship. Replaced parts shall become property of Beck Automation AG. Beck Automation AG shall bear the costs of remedying the defective parts in its works. If the repair cannot be carried out in the works of Beck Automation AG, the customer shall bear the costs related to transport, personnel, travelling, living. Beck Automation AG shall bear the costs of dismantling defective parts and mounting faultless parts.

13.3. Liability for express warranties

Express warranties are only those which have been expressly specified as such in the order acknowledgment or in the specifications. An express warranty is valid until the expiry of the guarantee period at the latest. If a taking over test has been agreed, the warranty shall be deemed to have been fulfilled as soon as the test results prove the relevant quality or capacity.

If the express warranties are not or only partially achieved, the customer may first of all require Beck Automation AG to carry out the improvements immediately.

The customer shall give Beck Automation AG the necessary time and possibility of doing so. If such improvements fail completely or in part, the customer may claim such compensation as has been agreed before for such case, or, if such an agreement has not been made, a reasonable reduction of price. If, however, the defects are of such importance that they cannot be remedied within a reasonable time and provided the supplies and services cannot be used for their specified purpose, or if such use is considerably impaired, then the customer shall be entitled to refuse acceptance of the defective part or, if partial acceptance is economically not justified for it, to terminate the contract. In such case Beck Automation AG can only be held liable for reimbursing the sums which have been paid to it for the parts affected by the termination.

13.4. Exclusions from the liability for defects

Excluded from Beck Automation AGs guarantee and liability for defects are all deficiencies which cannot be proved to have their origin in bad material, faulty design or poor workmanship, e.g. those resulting from normal wear, improper maintenance, failure to observe the operating instructions, unsuitable utilities (such as oils, lubricating grease), excessive loading, incorrect or negligent handling, use of any unsuitable material, influence of chemical, electrolytic or electric action, as far as it is not the fault of Beck Automation AG, building or erection work not undertaken by Beck

Automation AG, mounting of non-genuine spare parts, or resulting from other reasons beyond the control of Beck Automation AG.

13.5. Supplies and services of subcontractors

For supplies and services of subcontractors requested by the customer, Beck Automation AG assumes guarantee and liability for defects only to the extent of such subcontractors' guarantee and liability obligations.

13.6. Exclusivity of guarantee claims

With respect to any defective material, design or workmanship as well as to any failure to fulfill express warranties, the customer shall not be entitled to any rights and claims other than those expressly stipulated in Clauses 13.1 to 13.5.

13.7. Liability for additional obligations

Beck Automation AG is only liable to the extent of unlawful intent or gross negligence as far as claims arising out of faulty advice and the like or out of breach of any additional obligations are concerned.

14. Non performance, bad performance and their consequences

14.1. In all cases of bad performance or non-performance not expressly covered by these general conditions of supply — in particular if Beck Automation AG, without valid reasons, starts execution of the supplies and services so late that punctual completion is unlikely to be foreseen, or if an execution contrary to the terms of the contract can be clearly foreseen due to the fault of Beck Automation AG, or if the supplies and services have been executed contrary to the terms of the contract due to the fault of Beck Automation AG —, then the customer shall be entitled to grant a reasonable additional period for the supplies or services affected thereby by simultaneously warning to terminate the contract in case of non-compliance. If such additional period lapses due to the fault of Beck Automation AG, the customer shall be entitled to terminate the contract with respect to the supplies or services executed, or certain to be executed, contrary to the terms of the contract, and to claim a refund of the payments already made for such supplies or services.

14.2. In such case Clause 16 shall apply with regard to any claims for damages on the part of the customer and with regard to the exclusion of any further liability, and any claim for damages shall be limited to 10 percent of the contract price for the supplies and services affected by the termination.

15. Termination of the contract by Beck Automation AG

The contract shall be adapted appropriately, if unforeseen events considerably change the economic effect or the content of the supplies or services or considerably affect the activities of Beck Automation AG, or if performance subsequently becomes impossible. In so far as such adaptation is economically not justifiable, Beck Automation AG shall be entitled to terminate the contract or the parts affected thereby.

If Beck Automation AG wishes to terminate the contract it shall — after having recognised the consequences of the event — immediately inform the customer; this applies even if an extension of the delivery time has been agreed before. In case of termination of the contract Beck Automation AG shall be entitled to the payment of those parts of the supplies and services which have already been carried out. Claims for damages on the part of the customer because of such termination are excluded.

16. Exclusion of further liability on the part of Beck Automation AG

All cases of breach of contract and the relevant consequences as well as all rights and claims on the part of the customer, irrespective on what ground they are based, are exhaustively covered by these general conditions of supply. In particular, any claims not expressly mentioned for damages, reduction of price, termination of or withdrawal from the contract are excluded. In no case whatsoever shall the customer be entitled to claim damages other than compensation for costs of remedying defects in the supplies. This in particular refers, but shall not be limited, to loss of production, loss of use, loss of orders, loss of profit and other direct or indirect or consequential damage. This exclusion of liability, however, does not apply to unlawful intent or gross negligence on the part of Beck Automation AG, but does apply to unlawful intent or gross negligence of persons employed or appointed by Beck Automation AG to perform any of its obligations.

This exclusion of liability does not apply as far as it is contrary to compulsory law.

17. Right of recourse of Beck Automation AG

If, through actions or omissions of the customer or of persons employed or appointed by it to perform any of its obligations, personal injury or damage to the property of third parties occurs and if a claim is made against Beck Automation AG, then the latter shall be entitled to take recourse against the customer.

18. Erection

If Beck Automation AG undertakes the erection or the supervision of the erection, the General Conditions of Erection of the Swiss Association of Machinery Manufacturers (Swissmem) shall apply.

19. Validity

Deviations from these Terms and Conditions for Installations and Machines shall be agreed upon in writing in the order confirmation. Conditions by the customer in contradiction with conditions by Beck Automation AG shall be valid only if acknowledged explicitly and in writing by Beck Automation AG in the order confirmation.

20. Jurisdiction and applicable law

20.1. The place of jurisdiction for both the customer and Beck Automation AG shall be at the registered office of Beck Automation AG.

Beck Automation AG shall, however, be entitled to sue the customer at the latter's registered address.

20.2. The contract shall be governed by Swiss substantive law.