

# **General terms of payment and delivery by BGP-Blazevic, Stipo (Stephan) Blazevic, D-93057 Regensburg**

As of March 2010

## **1. General**

1.1 **BGP-Blazevic**, Stipo (Stephan) Blazevic supplies exclusively to their General Terms of Payment and Delivery. All agreements are only valid by written confirmation of BGP-Blazevic. Buyer's conditions of purchase or other deviating agreements can only be considered accepted if they have been confirmed in writing by BGP-Blazevic as an addition to these terms of sale.

1.2 References or counter-confirmations of the customer referring to his conditions of purchase are hereby expressly rejected by BGP-Blazevic.

## **2. Offer and conclusion of contract**

2.1 The offers of BGP-Blazevic are subject to change until their acceptance by the customer and can therefore be revoked by BGP-Blazevic at any time until receipt of the written declaration of acceptance or delivery of the delivery item.

2.2 Quotations and orders of the orderer become legally binding only by written order confirmation or by delivery of the delivery items by BGP-Blazevic.

2.3 BGP-Blazevic reserves the right to change the subject matter of the contract during the delivery time, provided that the subject of the contract does not undergo any unreasonable changes for the customer. BGP-Blazevic is entitled to call in third parties for performance of the contract.

2.4 The information contained in catalogs, brochures, circulars, advertisements, illustrations and price lists about weights, dimensions, prices, services and more details are not binding, unless they are expressly part of the contract. For exact compliance with DIN standards, drawings, weight and dimensions, plans, BGP-Blazevic is only obliged if this has been expressly agreed in writing. Otherwise, the contractually owed properties of BGP-Blazevic products are based exclusively on their product description. Ideas expressed unilaterally by the purchaser shall be disregarded.

## **3. Scope of deliveries**

3.1 For the scope of deliveries, the information provided by BGP-Blazevic in the order confirmation, as far as there is no order confirmation, the information in their offer, shall prevail.

3.2 The purchaser assumes full responsibility for the accuracy of the documents to be supplied by him, such as drawings, specifications, samples, molds and tools. All information on dimensions and the like must be confirmed in writing.

## **4. Prices**

4.1 All prices are valid - unless otherwise stated in writing - from D-93051 Regensburg, excluding packaging, insurance, transport, customs etc, plus VAT (net value of goods).

4.2 Travel, waiting and travel times are to be paid as working time. If an all-inclusive price or a free installation has been agreed for the assembly, surcharges for incurred overtime, night, Sunday and public holidays as well as waiting times not attributable to Schneeberger GmbH are to be remunerated separately.

Expenses for travel, food, accommodation and telephone are added.

## **5. Delivery time**

5.1 The delivery time is the date specified in the order confirmation of BGP-Blazevic. If the customer does not provide the documents to be procured by him or the preliminary material to be supplied by him in good time, the delivery time shall be extended correspondingly by this period of delay. The same applies if the input material has to be checked by BGP-Blazevic with regard to its usefulness.

5.2 The delivery time is met if the delivery item has left BGP-Blazevic or BGP-Blazevic has provided the delivery items for delivery and has informed the orderer about readiness for dispatch.

5.3 The delivery period shall be extended appropriately in the event of industrial disputes, in particular strikes and lockouts, as well as the occurrence of unforeseen obstacles beyond the scope of action of BGP-Blazevic, insofar as such obstacles influence the ability to complete the delivery. This also applies if the circumstances occur with subcontractors. The aforementioned circumstances are not responsible for BGP-Blazevic, even if they arise during an already existing default. In important cases, BGP-Blazevic will inform the customer of the beginning and end of such obstacles as soon as possible.

5.4 If BGP-Blazevic defaults, the purchaser of the BGP-Blazevic must - if provided by law - set a reasonable grace period. After expiry of this grace period, he may withdraw from the contract if the goods have not been reported as ready for dispatch by this time.

5.5 Partial deliveries are admissible.

## **6. Payment**

6.1 Invoicing takes place upon shipment unless otherwise agreed. If the shipment of ready-to-ship goods can not be made for reasons falling within the scope of the customer's risk, the invoice will nevertheless be made and payable.

6.2 Unless otherwise agreed, invoices are payable within 30 days of the date of invoice without any deductions.

6.3 Discount deductions are only permitted if they have been expressly agreed and the purchaser has settled or even compensated all open invoices with BGP-Blazevic.

6.4 Bills are changed by BGP-Blazevic only due to special agreements. The acceptance of bills of exchange or checks is always only on account of fulfillment. Discount charges and other exchange costs shall be borne by the purchaser.

6.5 The purchaser is not entitled to set off any claims against BGP-Blazevic, unless these claims are undisputed or legally established.

6.6 In the event of default, BGP-Blazevic is entitled to charge interest at a rate of 7% above the respective base interest rate - upon proof of a higher rate of debit interest payable by BGP-Blazevic to its bank. In the case of irregular and unpunctual payment by the purchaser, in case of doubt about his solvency or willingness to pay, BGP-Blazevic may demand immediate payment or securities for used and pending deliveries. Furthermore, BGP-Blazevic is entitled to withdraw from the contract and / or to claim damages in case of negligence. BGP-Blazevic may also prohibit the resale of goods delivered under retention of title, demand their return or the transfer of the indirect possession at the Buyer's expense and revoke a collection authorization.

## **7. Property reservation**

7.1 The delivered goods remain the property of BGP-Blazevic, Stipo (Stephan) Blazevic until full payment of the purchase price.

7.2 The customer is entitled to resell the reserved goods in the normal course of business; pledging or transfer by way of security is only permitted with the consent of BGP-Blazevic.

7.3 The customer hereby assigns the claims of the customer from the resale of the reserved goods to BGP-Blazevic; BGP-Blazevic accepts the assignment. Notwithstanding the assignment and the right of confiscation of BGP-Blazevic, the purchaser is entitled to collect as long as he remains in compliance with his obligations towards the BGP-Blazevic complies and does not fall into financial collapse.

7.4 At the request of BGP-Blazevic, the purchaser must provide the information required for confiscation of the assigned claim, in particular give BGP-Blazevic a list of debtors with name and address, the amount of the claim and the date of issuance of the invoice and inform the debtors of the assignment.

7.5 Any processing of the reserved goods shall be carried out by the purchaser for BGP-Blazevic, without any obligations for BGP-Blazevic. In the case of processing, combining or mixing the goods subject to retention of title with other products not belonging to BGP-Blazevic, BGP-Blazevic shall have the resulting co-ownership share of a new item in proportion to the factor value to the other processed goods at the time of processing, compound or mixing. If the purchaser acquires the sole ownership of a new item, the parties agree that BGP-Blazevic grants co-ownership of the new item in proportion to the factor value of the processed, linked or mixed reserved goods and delivers it free of charge to the customer BGP Blazevic holds.

7.6 If the goods subject to the property reservation are resold together with other goods, whether with or without processing, combination or mixing, the advance assignment agreed above shall only apply in the amount of the factor value the conditional commodity, which is resold together with the other commodity.

7.7 The seller of BGP-Blazevic shall immediately inform of any foreclosure measures of third parties in the goods subject to retention of title or the assignment which is assigned in advance by handing over the documents necessary for an intervention.

7.8 The authorization of the purchaser to dispose of the reserved goods and to collect the assigned claim shall cease in the event of default of payment by the purchaser, in the event of bills of exchange and check protests as well as a loss of assets - in particular if an insolvency petition is lodged - by the purchaser. In these cases, BGP-Blazevic is entitled to take possession of the reserved goods and the customer is obliged to surrender the reserved goods to BGP-Blazevic without BGP-Blazevic having to declare its withdrawal from the contract. The purchaser is also obliged to return the goods subject to retention of title if he has connected them with other movable goods and disassembly is required for their release. This obligation shall only apply if the delivery item of BGP-Blazevic has become an integral part of a uniform item within the meaning of § 947 BGB. If the buyer is a full trader, then the withdrawal of the reserved goods is only a withdrawal from the contract, if this is expressly declared by the BGP Blazevic.

7.9 BGP-Blazevic undertakes, at its discretion, to release the securities to which it is entitled according to the above provisions at the purchaser's request insofar as their value exceeds the claim by 10% or more.

## **8. Acceptance and testing**

8.1 BGP-Blazevic is only obliged to conclude transport insurance upon the express request of the customer. The costs are borne by the customer.

8.2 The goods shall be deemed accepted if complaints of immediately recognizable defects are not made immediately upon receipt of the consignment. Subsequent complaints need no longer be considered by BGP Blazevic. In the case of hidden defects, BGP-Blazevic is only liable within the legal period after becoming recognizable; but at the latest within the statutory warranty periods.

## **9. Claims for defects, statute of limitations**

9.1 The purchaser is obliged to check the delivery items of BGP-Blazevic immediately after delivery for defects. In the context of this review, appropriate random checks must also be carried out.

9.2 Complaints due to incomplete or incorrect deliveries or recognizable defects shall be reported to BGP-Blazevic in writing without delay and the defective parts in question should be returned to BGP-Blazevic upon request of BGP-Blazevic. Hidden defects, which can not be identified by spot checks, must be reported to BGP-Blazevic immediately after their discovery. In the event of late notification of complaints or defects, the delivery shall be deemed to be approved, excluding claims due to incomplete, incorrect or defective delivery.

9.3 The obligation to inspect and to give notice also extends to assembly instructions and the delivery of too large or too small quantities.

9.4 The quality of the goods is expressly based on the agreed technical delivery instructions. If BGP-Blazevic has to deliver according to drawings, specifications, samples, etc. of the customer, the customer assumes the risk of suitability for the intended use.

9.5 BGP-Blazevic is not responsible for material defects resulting from improper use, incorrect assembly or commissioning by the customer or incorrect or negligent treatment, as well as for the consequences of improper and without the consent of BGP-Blazevic made change or repair work of the customer or third parties. The same applies to defects that only insignificantly reduce the value or suitability of the goods.

9.6 Claims for defects expire 12 months after delivery. If the shipment is delayed without the fault of BGP-Blazevic, the liability lapses at the latest 18 months after readiness for dispatch. This does not apply if the law requires longer periods.

9.7 Complained goods must be returned to BGP-Blazevic immediately upon request. BGP Blazevic assumes the transport costs if the complaint is justified. If the customer does not comply with these obligations or makes changes to the goods that have already been complained about without the consent of BGP-Blazevic, he loses any claims for material defects. In the event of a legitimate claim for defects, BGP-Blazevic will, at its discretion, repair the goods complained of or provide a flawless replacement.

9.8 Within the scope of the statutory provisions, the purchaser has the right to rescind the contract if BGP-Blazevic - taking the statutory exceptions into account - passes a reasonable deadline set for the repair or replacement due to a defect in the sense of the terms of payment and delivery without result.

9.9 There are no claims in the event of defects on the part of the purchaser: • In the case of damage caused by improper handling or overuse by the purchaser or his customers; • If statutory or BGP-Blazevic's instructions for installation and treatment are not followed by the purchaser or his purchasers, unless the defect is not due to this non-compliance; • If the object of delivery has been created on the basis of the customer's specifications, in particular according to the primary material supplied by him or according to drawings provided by him, and the defect of the delivery item is due to this preliminary material or the specification drawings.

#### **10. Other liability**

10.1 Unless otherwise stated below, other and further claims of the purchaser against BGP-Blazevic are excluded. This applies in particular to claims for damages for breach of duties arising from the debt relationship and tort. BGP-Blazevic is therefore not liable for damage that has not occurred to the delivered goods themselves. Above all, BGP-Blazevic is not liable for lost profits or other financial losses of the customer.

10.2 The above limitations of liability shall not apply in the case of intent, gross negligence on the part of the legal representatives or executives, culpable violation of essential contractual obligations or if BGP-Blazevic has assumed a guarantee for the quality of the goods.

10.3 In the event of culpable violation of essential contractual obligations, BGP-Blazevic shall only be liable for the typical, reasonably foreseeable damage, except in cases of intent or gross negligence on the part of the legal representatives or executives.

10.4 Furthermore, the limitation of liability does not apply in those cases in which, under the Product Liability Act, faults in the delivered goods are liable for personal injury or property damage to privately used objects. It also does not apply in the case of injury to life, limb or health and in the absence of warranted characteristics, if and insofar as the assurance was intended to protect the purchaser against damage that was not caused to the delivered goods themselves.

#### **11. Copyrights and industrial property rights of third parties**

11.1 BGP-Blazevic reserves the right to samples, cost estimates, drawings and similar Information of a physical and intangible nature - including in electronic form - proprietary rights and copyrights; they may not be made accessible to third parties.

11.2 BGP-Blazevic undertakes to make information and documents designated as confidential by the customer accessible to third parties only with its consent.

11.3 It is the customer's responsibility to check whether the documents provided by the customer violate any rights of third parties, in particular copyrights, industrial property rights (design patents, patents, utility models, trademarks). If BGP-Blazevic is prosecuted by third parties for the use, exploitation or duplication of documents provided by the purchaser for the infringement of copyrights and / or industrial property rights or for violation of the law against unfair competition, the purchaser has to assist BGP-Blazevic in defense against these violations and to reimburse for all damages incurred by BGP-Blazevic (including attorney's fees and legal fees).

#### **12. Passage of risk**

12.1 If the goods are sent to the purchaser at the request of the purchaser, the risk of accidental loss and accidental deterioration of the delivery item shall pass to the buyer upon delivery of the delivery item to the freight forwarder, carrier or shipping agent. This also applies if the shipment is not made from the place of performance and / or if BGP-Blazevic bears the freight costs.

12.2 If the goods are ready for dispatch and the shipment is delayed for reasons for which the customer is responsible, the risk shall pass to the purchaser upon receipt of the notification of readiness for shipment.

#### **13. Final provisions**

13.1 The law of the Federal Republic of Germany shall apply to these terms of payment and delivery as well as the legal relations between BGP-Blazevic and the customer resulting from this contract.

13.2 Place of performance for payment and delivery is Regensburg.

13.3 Jurisdiction is the seat of BGP-Blazevic, as far as not contrary to mandatory legal provisions. BGP-Blazevic may also sue at the court having jurisdiction for the place of business of the customer.

13.4 Ancillary agreements, reservations, changes and additions require the written confirmation of BGP-Blazevic, Stipo (Stephan) Blazevic, to be valid.

**Please be informed that this document is only a translation of an original document. This document is not subject to legal regulations and merely serves the purpose of international understanding of our general terms of payment and delivery.**