

**General Sales Conditions of BROSA GmbH
for sales and work performance contracts**

Effective as of: 05 May 2022

1. Scope:

Sales and work performance contracts on movables

- 1.1 These Sales Conditions shall be applicable to the sale of movables or goods which the Customer orders from BROSA GmbH if the buyer is an entrepreneur (Section 14 BGB (German Civil Code)), a legal entity under public law or a public-law special fund. BROSA GmbH shall hereinafter be referred to as "BROSA" and the buyer hereinafter as "Customer".
- 1.2 These Sales Conditions shall apply regardless of whether the goods were manufactured by BROSA itself or purchased from third parties, meaning irrespective of whether the Customer's order is considered a sales contract (Section 433 BGB) or a work performance contract (Section 651 BGB). These Sales Conditions shall not apply to contracts for work (Section 631 BGB).
- 1.3 Individual agreements made with the Customer in a particular case (including ancillary agreements, additions and amendments) shall take precedence over these General Sales Conditions in any event.
- 1.4 References to the application of statutory provisions are for the purpose of clarification only. The statutory provisions shall therefore also apply without such clarification unless they are directly amended or explicitly excluded in these Sales Conditions, or individual contractual agreements take precedence.

2. Non-applicability of the Customer's General Terms and Conditions:

- 2.1 Unless individual agreements made with the Customer take precedence, these Sales Conditions shall exclusively apply to deliveries by BROSA.
- 2.2 Divergent, conflicting or supplementary terms of purchase or any other General Terms and Conditions of the Customer shall only become part of the contract if and to the extent to which BROSA has explicitly agreed to their applicability in writing. Even if the Customer refers to his General Terms and Conditions in a letter or in any other way before, during or after placing an order, and BROSA does not comment thereupon,

BROSA's silence shall not indicate consent to the applicability of the Customer's Terms and Conditions.

3. Offer and conclusion of contract / Costs for preparing an offer

- 3.1 All offers prepared by BROSA shall be subject to confirmation and non-binding as long as they are not explicitly marked as binding or contain a specific deadline of acceptance. BROSA can accept orders within fourteen days upon receipt.
- 3.2 If BROSA prepares an offer upon request of the Customer, BROSA reserves the right to charge the Customer the costs for preparing this offer at an hourly rate of € 90,00 plus value-added tax if the Customer does not place the order with BROSA.
- 3.3 Specifications provided by BROSA on the item of delivery or service (e.g. weights, dimensions, utility values, load-bearing capacities, tolerances and technical data) as well as our depictions of such an item (e.g. drawings and illustrations) are only approximate unless the usability for the contractually intended purpose requires exact conformity. They are not guaranteed characteristics but descriptions or designations of the delivery or service. Customary deviations and deviations due to legal provisions or deviations constituting technical improvements as well as the replacement of components with equivalent parts are permissible unless they impair the usability for the contractually intended purpose.
- 3.4 BROSA shall retain the title or copyright to all offers and quotations it has submitted as well as to all drawings, illustrations, calculations, brochures, catalogues, models, tools and any other documents and auxiliary materials provided to the Customer. The Customer is not permitted to make these items as such or their contents available to third parties, disclose them, or use or duplicate them himself or through third parties without the explicit consent of BROSA. Upon BROSA's request, he is required to return these items to BROSA in full and to destroy any copies if they are no longer required in the proper course of business or if the negotiations do not lead to the conclusion of a contract.

4. Prices and payment

- 4.1 The prices shall apply to the scope of delivery and service specified in the order confirmations. Additional or special services are charged separately. The prices are quoted in EUROS ex works plus packaging, statutory value-added tax, customs duties for export deliveries as well as fees and other public levies.

- 4.3 Insofar as the agreed prices are based on BROSA's list prices and delivery will not take place until more than four months after conclusion of the contract, BROSA's list prices applicable at the time of delivery shall apply (in each case minus an agreed percentage or fixed discount, if applicable).
- 4.3 Invoice amounts shall be payable immediately without deduction unless otherwise agreed in writing. The date of payment shall be determined by the date of receipt by BROSA. Checks shall not be accepted as payment until encashment. Should the Customer fail to effect payment when due, interest shall be charged on the outstanding amounts at 5% p.a. as of the due date; the right to claim higher interest rates and additional damages in the event of default shall remain unaffected.
- 4.4 Offsetting payments against the Customer's counterclaims or retaining payments based on such claims is only permitted if the counterclaims are undisputed or have been legally established.
- 4.5 BROSA shall be entitled to make outstanding deliveries or provide services only against advance payment or a security deposit if, after the conclusion of the contract, it becomes aware of circumstances which are apt to substantially diminish the Customer's credit-worthiness and which might jeopardize the Customer's payment of BROSA's outstanding claims arising from the respective contractual relationship (including those from other individual orders to which the same framework contract may apply).

5. Delivery, Non-availability of the service, Proviso of availability of supplies:

- 5.1 Deliveries shall be as per FCA (Incoterms). Partial deliveries are permitted provided that the Customer can be reasonably expected to accept them.
- 5.2 Deadlines and dates for the deliveries and services indicated by BROSA are always only approximate unless a fixed deadline or a fixed date has been explicitly specified or agreed on. If shipment is part of the agreement, delivery deadlines and delivery dates refer to the time of transfer to the forwarder, freight carrier or any other third party commissioned with the transport.

Even if a fixed deadline or fixed date has been explicitly specified or agreed on, BROSA shall not be liable for any consequences arising from an exceeded deadline if it can be attributed to the Customer's failure to comply with his obligations to cooperate.

5.3 Non-availability of the service:

Insofar as BROSA cannot meet binding delivery deadlines for reasons for which BROSA is not responsible, BROSA shall notify the Customer hereof without delay and indicate the expected new delivery deadline at the same time.

If the service is still not available within the new delivery deadline, BROSA shall be entitled to withdraw from the contract completely or partially; BROSA shall reimburse the Customer without delay for any consideration already provided.

5.4 Proviso of availability of supplies:

In particular the late delivery to us from our suppliers shall be considered a case of non-availability of the service as defined above if BROSA has concluded a congruent covering transaction, if neither BROSA nor its supplier are at fault or if BROSA is not obliged to provide supplies in a particular case due to an individual agreement.

5.5 BROSA's statutory rights particularly regarding the exclusion of the obligation to perform (for example if performance and/or subsequent performance is impossible or cannot be reasonably expected) shall remain unaffected.

5.6 The Customer shall remain at liberty to set a reasonable grace period and to terminate the contract after futile expiry in accordance with Section 323 BGB; the Customer's defect claims (Clause 7 below) shall not be limited by the provisions under this Clause 5.

5.7 The Customer shall not refuse acceptance of deliveries due to insignificant defects.

6. Place of fulfillment, Shipment, Packaging, Passage of risk

6.1 The place of fulfillment for all obligations arising from the contractual relationship is 88069 Tettwang, Dr. Klein Straße 1, unless otherwise agreed in a particular case.

6.2 The type of shipment and the packaging shall be subject to the dutiful discretion of BROSA.

6.3 The risk shall be passed to the Customer at the latest with the transfer of the delivery item (determined by the start of the loading procedure) to the forwarder, freight carrier or any other third party commissioned with carrying out the shipment. This shall also apply to partial deliveries or if BROSA has also assumed additional services (e.g.

shipment). If shipment or transfer is delayed due to circumstances whose cause lies with the Customer, the risk shall be passed to the Customer on the day the delivery item is ready for shipment and BROSA has notified the Customer to this effect.

- 6.4 Storage costs incurred after the risk has passed shall be borne by the Customer. *(Storage costs are 0.25 % of the invoice amount of the goods to be stored by BROSA per full week of storage.)* The right to claim and proof of additional or lower storage costs is reserved.
- 6.5 BROSA shall insure the shipment only upon explicit request of the Customer and at his cost against theft, damage due to breakage, damage in transit, fire and water damage or any other insurable risks.

7. Defect claims, Reduction of the limitation period, Installation and removal costs

- 7.1 Deliveries by BROSA shall be subject to a limitation period for defect claims in accordance with Section 438 (1) BGB of two years as of delivery or, if acceptance is required, as of the time of acceptance.
- 7.2 The delivery items shall be carefully inspected without delay after their delivery to the Customer or to the third party specified by the Customer. They shall be considered approved by the Customer as regards obvious defects or other defects which could have been identified during careful inspection without delay unless BROSA receives a written notice of defects within seven work days upon delivery. As regards other defects, the delivery items shall be considered approved by the Customer if BROSA does not receive a notice of defects within seven work days of the time the defect was recognisable; if the Customer could have recognised the defect within normal use at an earlier point in time, this earlier point in time shall determine the start of the notification period.
- 7.3 In case of material defects in the delivery items, BROSA is initially obliged and entitled to either rectification or replacement at its discretion within an appropriate deadline. In the event of failure, i.e. if rectification or replacement is impossible, unreasonable, refused or inappropriately delayed, the Customer shall have the right to withdraw from the contract or reduce the purchase price accordingly.
- 7.4 If the delivery item was further processed or installed, BROSA shall not bear **any installation or removal costs** within the framework of fulfillment of the Customer's strict defect claims.

- 7.5 If BROSA is at fault for a defect, the Customer shall be entitled to claim damages under the conditions stipulated in Clause 8 below.
- 7.6 In case of defects in components from other manufacturers, which BROSA cannot remedy for licensing or practical reasons, BROSA shall, at its discretion, assert its warranty claims against the manufacturers and suppliers for the Customer's account or assign the claims to the Customer. Warranty claims against BROSA shall exist for such defects under any other conditions and in accordance with these general delivery conditions only if legal enforcement of the above claims against the manufacturer and supplier was unsuccessful or is futile due to, for example, insolvency. For the duration of the legal dispute, the limitation period shall be suspended as regards the Customer's corresponding warranty claims against BROSA.
- 7.7 The warranty shall lapse if the Customer modifies the delivery item without BROSA's consent or allows third parties to modify it, and remedying the defect is thus made impossible or unreasonably more difficult. In any event, the Customer shall bear the additional costs for remedying the defects caused by the modification.
- 7.8 A delivery of used goods agreed on with the Customer in a particular case shall exclude any warranty for material defects.

8. Liability for damages based on fault

- 8.1 BROSA's liability for damages, regardless of the legal grounds and particularly due to impossibility, default, defective or incorrect delivery, breach of contract, breach of duties during contract negotiations and tortious acts shall be, when based on fault in any event, limited in accordance with this Clause 8.
- 8.2 BROSA shall not be liable in the event of simple negligence on the part of its bodies, legal representatives, employees or any other vicarious agents unless it constitutes a breach of obligations essential to the contract. Obligations to deliver goods in a timely manner and free of defects impairing their functionality or usability more than only insignificantly are considered essential to the contract.
- 8.3 Insofar as BROSA is liable for damages on the grounds of and in accordance with Clause 8.2, this liability shall be limited to damage which BROSA has anticipated when concluding the contract as a possible consequence of a breach of contract or which it should have anticipated when applying due diligence. Furthermore, indirect damage and consequential damage resulting from defects in the delivery item are only subject to

compensation insofar as such damage is typically to be expected when using the delivery item as stipulated.

8.4 The above exclusions and limitations of liability apply to the same extent in favour of BROSA's bodies, legal representatives, employees and other vicarious agents.

8.5 The limitations in this Clause 8 shall not apply to BROSA's liability with regard to wilful conduct, guaranteed characteristics, injury of life, limb or health, or according to the product liability law.

8.6 Insofar as BROSA provides technical information or acts as an adviser, and this information or advice is not part of the contractually agreed scope of services it owes, this shall occur free of charge and under exclusion of any liability.

9. Retention of title:

9.1 Until all claims arising from the respective sales or work performance contract have been paid in full, BROSA shall retain the title to the sold goods.

9.2 Prior to complete payment of the secured claims, the goods subject to retention of title shall be neither pledged nor assigned as security to third parties. The Customer shall notify BROSA without delay if and to the extent to which third parties access the goods belonging to BROSA.

9.3 If the Customer breaches the contract, in particular when failing to pay the purchase price due, BROSA shall have the right to withdraw from the contract in accordance with the statutory provisions and/or demand the return of the goods on the grounds of retention of title.

9.4 The Customer shall be authorised to resell and/or further process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply additionally.

- (a) The retention of title shall extend to the full value of any products created by way of processing, mixing or combining BROSA's goods while BROSA shall be considered their manufacturer. If third-party goods used for processing, mixing or combining are subject to retention of title, BROSA shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. Beyond that, the same shall apply to the product to be created as to the goods delivered under retention of title.
- (b) The Customer shall assign the claims against third parties arising from the resale of the item or product to BROSA as security in full or in the amount of our respective proportion of ownership in accordance with the above paragraph. BROSA shall accept this assignment. The Customer's obligations specified in Paragraph 2 shall also apply in consideration of the claims assigned.
- (c) The Customer shall remain entitled to collect the claim beside BROSA. BROSA is obliged not to collect the claim as long as the Customer fulfils his payment obligations towards BROSA, is not in default of payment, no request to open insolvency proceedings has been filed and his performance capacity is not otherwise impaired. However, if any such circumstances arise, BROSA can demand that the Customer discloses the assigned claims and their debtors to BROSA, indicates all details needed for collection, submits all relevant documents and notifies the debtors (third parties) of the assignment.
- (d) If the realisable value of the securities exceeds BROSA's claims by more than 10%, BROSA shall release securities of his choice to the Customer.

10. Choice of law / Place of jurisdiction:

10.1 These General Sales Conditions and all legal relations between BROSA and the Customer shall be governed by the law of the Federal Republic of Germany with the exclusion of uniform international law, particularly the UN Sales Convention.

10.2 If the Customer is a merchant according to the German Commercial Code (Handelsgesetzbuch), a legal entity under public law or a public-law special fund, BROSA's registered office in 88069 Tettnang shall be the exclusive – also international – place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship; however, BROSA shall also have the right to take legal action at the Customer's general place of jurisdiction. Any divergent mandatory places of jurisdiction which neither BROSA nor the Customer can influence by means of the above

provisions shall take precedence over the above provisions regarding the place of jurisdiction.

Note:

The Customer acknowledges the fact that BROSA stores data arising from the contractual relationship in accordance with Section 28 of the Federal Data Protection Law (Bundesdatenschutzgesetz) for the purpose of data processing and reserves the right to transmit the data to third parties (e.g. insurance companies) insofar as deemed necessary for fulfilling the contract.

- End of the General Sales Conditions of BROSA GmbH – Version May 2022 –