

# General Terms and Conditions of Balver Zinn Josef Jost GmbH & Co. KG

1. The following terms apply for all present and future business transactions, unless other conditions have been acknowledged by us in writing. Modifications to, or invalidity of, individual provisions shall not affect the validity of the remaining provisions.
2. Any agreements in connection with the intended or already concluded transactions require the written form in order to be effective. Assurances and supplementary agreements made by ourselves or by our representatives must be confirmed by us in writing.
3. Our offers are always subject to confirmation. Should we bind ourselves to the offer by an express declaration, this commitment shall be valid for a period of time not exceeding 10 days.
- 4 a. The agreed delivery time is binding only if it has been expressly agreed. Should compliance with the delivery time have been assured bindingly, this shall be valid, under reserve of any unforeseeable obstacles, whether these happen on our, or on our supplier's premises, such as in cases of force majeure, mobilisation, war, lack of workforce, strikes or lockouts at our, or our suppliers premises, default in delivery of material due to unreasonable modifications in the delivery conditions of a supplier, delays in transport, operation failures as well as under reserve of delayed delivery of important raw materials, which we are not responsible for, if these obstacles can be proven to have considerable influence on the completion or delivery of the delivery item. In case of such obstacles or similar incidents, the delivery period shall be extended adequately or the delivery date shall be postponed accordingly; the customer is not entitled to any other rights; in particular, we shall not be bound by his purchase conditions. The aforementioned circumstances are not deemed to originate in our sphere of responsibility, even if they occur during an already existing time of default. We shall inform the customer as soon as possible should such incidents occur.
- b. Should such unforeseeable obstacles or other cases of force majeure considerably change the economic relevance or the contents of the supply, or should they considerably effect the operation of our company or should it be subsequently established that its execution is impossible, we shall be entitled to withdraw from the contract. Should we desire to assert this right of withdrawal, we are obliged to inform the customer accordingly without delay after the realisation of the consequences of the incident; this applies even if initially an extension of the delivery period or a right of withdrawal or postponement of the delivery date had been agreed with the customer. Claims for compensation of damages are excluded in all cases. Delivery periods and delivery dates shall be deemed to have been complied with if dispatch has been effected, or if readiness for dispatch has been announced before their expiry.
- c. Delivered items are to be accepted by the customer, unless they contain substantial deficiencies. We shall also be entitled to effect partial deliveries.
- d. Risk of transport shall pass to the customer at the time the products leave our premises – even if we use our own vehicles for dispatch. The customer shall also bear the transport risk of return deliveries, irrespective of the reason for the return.
5. Should the customer not accept the goods on schedule, without a sufficient reason, we shall be entitled to withdraw from the contract.
6. Modifications desired by the customer with regard to the specification of the ordered goods can be provided for as long as production has not yet started. However, they present justification for a price increase and may lead to an extended delivery time.
7. Complaints and notices of deficiency shall only be considered if they have been brought to our knowledge in writing within 30 days after receipt of the goods. Hidden defects must be notified in writing immediately after they have become detectable. Rejected goods may only be sent back after consultation with us. In such cases, costs and risk for the transport to and from the customer, for packaging as well as for costs of personnel deployment shall be for our account.
8. Our invoices are to be paid – even if complaints, in particular notices of defects, have been made – by payment in cash, wire transfer or cheque, depending on the invoice date recorded on the invoice;  
immediate payment with 2% cash discount,  
or 14 days after the invoice date: net without deductions.  
Should the period of time set for the deduction of cash discount not be sufficient for a complete examination and handling of our invoices, we recommend to effect payment and make it subject to the reservation of subsequent verification.
9. Until the time of payment of the purchase price including all supplementary costs such as transport and packaging, and until the time of payment of our claims from the respective delivery transaction or from any other delivery transaction or from other supplies to the customer (in case of cheques and bills of exchange until the time of their encashment), the delivered goods shall remain our property. The customer is obliged to store the goods delivered under reservation of title, using the diligence of a prudent businessman, and to insure it against fire and theft at its full value. The seller reserves the right of title to the delivered items until the time of the complete settlement of all claims against the customer. Any processing or remodelling of the goods under reservation of title is always carried out for the seller as the manufacturer. As a security, the customer hereby assigns to the seller all claims up to an amount of 120% of the sales price of the goods under reservation of title, which he is entitled to by the resale of such goods without, or after, their processing. The seller is obliged to release securities insofar as their value exceeds the secured claims by more than 25%. The customer may neither pledge nor transfer ownership by way of security to any third party up until payment for the goods has been effected to us. We must be notified immediately of any attachments of the goods under reservation of title for the benefit of a third party, including information on the name of the bailiff.
10. Should we, in cases of fault of the customer, make use of a right of withdrawal from the contract, the customer shall be obliged to send the goods back to us at his own expense, making timely notification of the dispatch and, in addition to this, to compensate us for any damages occurred. Any down-payments shall be paid back by us, if applicable after deduction of the costs to be borne by the customer pursuant to the previous sentence, at the time of the receipt of the goods at the latest.
11. Place of performance and payment is Balve. The place of jurisdiction shall be, at our option, the place of the company's registered office, or Frankfurt am Main.  
  
We have assigned all present and future claims – including those on which this invoice is based – to Factorem GmbH, Industriestr. 30-34, D-65760 Eschborn, Germany. We have also assigned our reservation of title to this bank. Should the customer be in arrears with any payment obligations towards us, all existing claims shall be payable immediately. In cases of an arbitration analysis, this shall be carried out by the laboratory  
  
Martin Bäurle, Bernsteinweg 9, D-44267 Dortmund, Germany
12. The terms of the Verein deutscher Metallhändler (Association of German Metal Traders), in the version valid at the time of the conclusion of the contract, shall apply.
13. We are entitled to assert our rights from the reservation of title – in particular the redemption of goods delivered under reservation of title – without having to previously withdraw from the purchase contract concerned.