


<b>Terms of Purchase</b>					QSE-Doc. No.	DB-BEP-17	
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## (1) Terms of Purchase

### 1. General

These Terms and Conditions of Purchase shall apply to purchase orders and the legal relationship between the Customer (BENE GmbH, Hali GmbH or Neudoerfler Office Systems GmbH), hereinafter referred to as "Customer" and the Supplier, hereinafter referred to as "Supplier". These are valid for all orders as well as delivery call-offs of the Customer. Changes and amendments require the written consent of the Customer in order to be valid. General Terms as well as conflicting order confirmations of the Supplier are expressly not applicable to purchase orders and the entire business relationship and shall not form part of the contractual basis.

### 2. Orders

2.1. Orders of the Customer are only legally binding if issued by the procurement department of the Customer (in written or electronic form). This shall also apply to any modifications of or amendments to purchase orders.

2.2. Orders shall be deemed to have been accepted by the Supplier unless an objection is raised in writing within two working days at the latest, or unless execution of the order is commenced beforehand. Until the time of acceptance, the Customer is entitled to revoke the orders.

2.3. The Customer may at any time demand changes in the design, process or execution of the delivery item. If the Customer requests changes, the Supplier shall undertake to carry them out by the required date. In this case, the Customer shall bear the costs of any delivery items that were finished before they could be modified as well as any associated semi-finished products and raw materials, but only within the scope of the production and material release declared as binding in the order or in the delivery call-off and only insofar as these stocks cannot be used elsewhere by the Supplier. The Supplier is obliged to make every effort to limit the quantity of these items for which The Customer must bear the cost to the absolute minimum possible.

2.4. The Supplier may not introduce any changes to the properties or in the production of the delivery item, unless there is written consent from or written request by the Customer. This shall also apply to delivery items that have been developed by the Supplier at his own responsibility or to which the Supplier holds industrial property rights.

2.5. The order number of the Customer shall be quoted in all documents relating to the order.

### 3. Prices

3.1. The agreed prices are fixed prices and include costs for functional and quality tests, packaging, works- and acceptance certificates as well as documentation and are, unless otherwise expressly agreed, DDP Incoterms 2010. If required, transport permits are also included in the price.

3.2. Price reductions due to changes in the market shall be passed on in full to the Customer.

3.3. Cost estimates, offers as well as planning and consulting services are free of charge for the Customer, unless otherwise agreed.

3.4. If the Supplier demands the provision of collateral security of any kind whatsoever from the Customer, such as a bill of exchange, surety, guarantee, bank guarantee, other guarantees from credit institutions, other miscellaneous collateral security, etc., the Supplier undertakes to reimburse the Customer in full for the expenses, charges, costs, other expenditure and the labour, personnel and similar costs (hereafter referred to as "costs") incurred by the Customer. The Customer shall be entitled to invoice the Supplier separately for these costs with an agreed due date of 14 days from the invoice date.

### 4. Delivery dates and delivery periods

4.1. Agreed dates, deadlines and quantities are binding. The date of receipt of the goods by the Customer shall be decisive for compliance with the delivery date or the delivery period.

4.2. If delivery has been agreed FCA Incoterms 2010, the Supplier shall independently make the goods available and load them on time, taking into account the usual time for loading and transport, and notify the carrier authorised by the Customer that the timely receipt by the

Customer is guaranteed. In the event of late or non-observance of delivery dates to the carrier, the Customer expects the carrier to use all means at his disposal to ensure that the relevant date for receipt of the goods by the Customer is guaranteed. Any additional costs arising therefrom due to special services provided by the carrier shall be borne by the Supplier.

4.3. The Customer shall be entitled to return deliveries received before the agreed date or exceeding the agreed quantities at the expense and risk of the Supplier or to charge the costs of storage to the Supplier.

4.4. The Supplier undertakes to maintain an appropriate failure strategy for his production facilities and plants in order to ensure that deliveries are made to the Customer on time. The Supplier undertakes to notify the Customer immediately of any foreseeable difficulties in meeting agreed delivery dates.

4.5. The Supplier and the Customer agree that all deliveries shall be made free of retention of title.

### 5. Delay in delivery

5.1. In case of a delay in delivery or performance, the Customer has the right to demand a contractual penalty of 1% of the gross order value per. The Customer reserves the right, in the event of a delay in delivery without setting a grace period, to reject the delayed delivery and to withdraw from the order in whole or in part without the Supplier having any claim to damages. Furthermore, the Customer reserves the right to claim damages in excess of the contractual penalty.

5.2. In the case of repeated delays in delivery the Customer shall be entitled to terminate the contract with immediate effect by means of a simple written notice to the Supplier, and the Supplier shall not be entitled to any claims whatsoever as a result thereof.

### 6. Packaging

6.1. Packaging shall be as customary in trade, appropriate and in good order and in a condition to sufficiently protect the goods up to the plant of the Customer or the destination or place of assembly agreed.

6.2. the Customer shall be entitled but not obliged to return packaging material at the Supplier's cost and risk. The returned packaging shall be reused by the Supplier at his own expense as far as possible, or disposed of professionally and in accordance with the applicable statutory provisions. All obligations and costs with regard to compliance with packaging regulations and the collection and disposal of packaging shall be assumed by the Supplier, who shall indemnify and hold the Customer harmless.

### 7. Tools and means of production

7.1. Tools are all direct means of production (devices, models, moulds, forming tools, matrices, stencils, control devices, gauges) that are exclusively used for manufacturing and testing the delivery item to be manufactured by the Supplier for the Customer.

7.2. The tools shall warrant production of the delivery item in the requested quality and function in an economical way and shall be suitable for covering the agreed serial, project and spare parts needs.

7.3. The initial equipment with tools shall be paid by the Customer at the price agreed in the purchase order. If a share of the total costs is paid via a specifically agreed percentage of the price for the parts, title to the tools shall pass to the Customer upon payment of the total tool costs via the residual percentage. The Customer shall be entitled to acquire title by paying the non-amortised share early, net of the agreed interest. If it is agreed between the Customer and the Supplier that no tool costs shall be paid or that the costs of the tools shall only be subsidised by the Customer, the Supplier shall remain the owner of the means of production manufactured by him or by a third party. In that case the Supplier shall grant the Customer the right to purchase the tool at a reasonable price and any contributions made to the purchase price shall be deducted.

7.4. After payment has been made in full, the tools shall become the property of the Customer. Tools which are the property of the Customer or which become the property of the Customer shall be loaned to the Supplier for production and/or testing of the delivery items to be ordered by the Customer until further notice, which may be given at any

time. The parties agree that the Supplier shall for no reason whatsoever be able to claim any rights to withhold those tools.

7.5. The tools shall be paid for within the payment period agreed in the purchase order but in any case only after approval of a properly conducted initial sampling. An invoice containing the detailed names of the different means of production shall be sent to the Customer by the Supplier at the time of delivery of the produced initial samples.

7.6. Maintenance, service, repair, refurbishment and insurance costs shall be borne by the Supplier, including after title has passed to the Customer or in the case that the tools are provided by the Customer.

7.7. In the case of changes to the tools at the request of the Customer the consequences regarding additional costs or reduced costs shall be regulated reasonably by consent. The Supplier shall provide the Customer with drawings and other design documents concerning the tools and all detailed information free of charge upon request.

7.8. Should the Customer order for whatever reasons that further work on the tools is to be discontinued prior to completion, the Customer shall bear the costs provably incurred by then and the Customer expressly reserves the right to check the evidence of the costs on site.

7.9. The Customer reserves the right to inspect the tools held by the Supplier at any time during normal business hours.

## 8. Payment

8.1. At the choice of the Customer, payment shall be made either within 30 days at a 3% cash discount or within 60 days without deduction after fulfillment of all conditions agreed in the purchase order and after receipt of the invoice. Down payments agreed shall be made 60 days after receipt of an invoice for the down payment and a free-of-charge abstract and irrevocable bank guarantee of a first-class Austrian bank.

8.2. In addition to the payment period a seven-day grace period ("*Respirofrist*") is to be added. Payments made within this period shall be made punctual and thus entitle the Customer to a cash discount deduction. At the Customer's choice, payment may be made by bank transfer, cheque or bill of exchange.

8.3. Payment shall not mean that deliveries or services are accepted as being in order and shall therefore constitute no waiver of any claims whatsoever to which the Customer may be entitled.

8.4. The Customer reserves the right to offset claims against counterclaims, including those of group companies.

8.5. The Supplier is not entitled to offset claims or to withhold or minimize services for any reason whatsoever. This prohibition to offset claims does not apply to claims of the Supplier which have been acknowledged by the Customer in writing or which have been legally established by a court of law.

## 9. Invoicing, worksheets

9.1. Invoices may only be issued after complete delivery and performance (see 8.1.). Partial invoices require prior written consent.

9.2. Invoices shall be sent to the Finance and Accounting department of the Customer; one copy shall suffice. Invoices must always comply with the respective requirements of the VAT laws.

9.3. The Supplier undertakes to participate in electronic order/assignment/invoice processing by the Customer.

9.4. In the case that staff render assembly, repair or maintenance work the staff of the Supplier shall report to the person in charge advised by the Customer in the purchase order prior to commencement of the work. Originals of worksheets and material records signed by the person in charge at the Customer's company shall be enclosed with the invoices. Work and material that has not been confirmed by the Customer's person in charge shall not be paid for.

## 10. Guarantee, damages, and product liability

10.1. The Supplier fully warrants that the deliveries and/or performance is free of defects and in compliance with the purchase order, has the common and promised properties and is in compliance with all relevant statutory and official provisions applicable at the destination for a term of 60 (sixty) months. The Supplier further guarantees that the deliveries and/or performance corresponds to the latest recognised state of art and technology, that only material of first-class and suitable quality have been used and that it is suitable for the intended use.

10.2. For engineering, consulting, software or documentation services as well as in the case of provision of staff the Supplier fully warrants accuracy and completeness of written or oral information or instructions for an unlimited period of time.

10.3. The Supplier guarantees to carry out training, repair, service and maintenance work with respect to the delivered products for consideration that is customary in the market, and follow-up delivery

and deliveries of spare parts and wearing parts for a period of 15 (fifteen) years from the date of performance of the contract.

10.4. The relevant warranty period shall commence at the time the end customer takes delivery of the goods or, if the goods will be used in a plant of the Customer, when the goods are used for the first time.

10.5. The Supplier waives the plea of late notice of defects ("*Mängelrüge*"). Defects may be reported at any time during the warranty period.

10.6. The Supplier shall free of charge and at his risk, remedy defects, at the Customer's choice, either by repair, replacement and/or subsequent delivery within a short but reasonable period of time. When repairing defects, the Supplier shall safeguard the legitimate interest of the Customer (e.g. requirements of production, necessity of undisturbed continuous industrial operation). Irrespective of the fact that repairs/replacement principally have priority, there shall also be the remedies of price reduction and cancellation at the Customer's equitable discretion. In case the Supplier fails to adhere to his obligations or in urgent cases, the Customer shall be entitled to commission services necessary for the remedy of the defect at the cost and risk of the Supplier. Any additional obligations of the Supplier shall not be affected thereby.

10.7. In the case of repair and/or replacement, the warranty period for the delivery or service shall start to run anew. Furthermore, the warranty period for the entire delivery or service shall start to run anew if the defect considerably reduces or prevents the functionality or use of the delivery or service. The warranty periods shall be interrupted by downtimes/times during which the entire delivery and/or service cannot be used that have been caused by the Supplier and/or are due to the defect.

10.8. The Customer's statutory warranty rights shall remain unaffected. The burden to prove non-existence of a defect that occurs/arises during the warranty period shall be borne by the Supplier. In the event of a warranty claim, the Customer has the right to request a price reduction, recession from the contract, repair or replacement.

10.9. The Supplier shall be liable for ensuring that the delivery or services correspond to the intended use, which the Supplier was or should have been aware of. The Supplier is obliged to clarify any doubts about the intended use by requesting the Customer or to inform the Customer in good time of any non-usability for certain purposes.

10.10. The Supplier shall be liable according to the statutory provisions for damages caused by him or any person attributable to him. The Contractor shall be liable both for his subcontractors and his suppliers as for himself, independent of his influence on the provision of deliveries or services. To the extent that the Customer is held liable by third parties on the ground of faulty deliveries of the Supplier, the Supplier shall indemnify and hold harmless the Customer from and against such claims. This shall, in principle, also apply if and when the Customer is held liable by third parties on the ground of culpable actions and/or omissions by the Supplier or persons attributable to him. The Supplier shall furthermore also be obliged to assist the Customer in any possible legal disputes with third parties.

10.11. The Supplier undertakes to reimburse the Customer all damage under product liability with regard to the products delivered by him, which shall also include partial products, and to indemnify and hold the Customer harmless from and against all third-party product liability claims with regard to personal injury and damage to property and any pecuniary loss resulting therefrom. In addition, the Supplier shall be obliged also to supply completely and without request any and all documents, instructions, drawings and other documentation necessary for the intended use (installation, application, etc.) of the products delivered by him. Furthermore, the Supplier shall immediately advise upon request. If the supplier becomes aware of circumstances which might lead to claims under product liability, he shall be obliged to immediately inform the Customer thereof and to reimburse the Customer for all expenses incurred and damage suffered by the Customer in connection with any factory recalls of defective products and/or expenses and damages the Customer has to pay to third parties. If legal disputes arise with regard to cases of product liability, the Supplier shall make available all useful evidence in a timely manner, use his best efforts to support the Customer and reimburse the Customer reasonable costs of such legal disputes.

10.12. To the extent the Customer is entitled to damages, the Customer's claim shall also extend to compensation for lost profit and compensation for any and all damages the Customer has to pay to the end customer irrespective of the degree of fault of the Supplier.

## 11. Secrecy, deadline and quality checks

11.1. The Supplier undertakes to treat as a business secret all commercial and technical information and documents that are not publicly known and of which he knows from the business relationship.

11.2. No documents, drawings, models, stencils, samples or similar items must be assigned or otherwise made accessible to unauthorised third parties. Reproduction of such documents or items shall be permitted only if required for operational reasons and in compliance with the provisions of copyright law. This obligation shall remain in force even after termination of the business relationship. All documents, drawings, models, stencils, samples or similar items shall be returned to the Customer without being requested to do so, at the latest, however, upon termination of the business relationship.

11.3. If the Customer provides the Supplier with documents – in particular drawings, plans and samples – the Supplier shall check these for correctness and completeness and clarify any doubts with the Customer. The Customer does not transfer or make available copyrights and/or other industrial property rights to these documents.

11.4. Subcontractors and upstream suppliers shall be put under equal obligations by the Supplier.

11.5. The Customer shall be entitled at any time to carry out inspections of the state of production and the quality at the Supplier's or his subcontractors or suppliers. The Supplier warrants that the delivery will be made in the agreed quality and corresponds to the reference sample.

11.6. The Customer shall be advised the names of the subcontractors and suppliers involved in the performance of the contract shortly after placing of the order, except in the case of standard parts. However, no legal relationship between the Customer and the subcontractors or suppliers shall be established. The Customer reserves the right to reject subcontractors or suppliers. The Supplier shall be liable for the selection and fault of his subcontractors and suppliers.

#### 12. No assignment

12.1. The Supplier shall not assign his contractual rights or duties to third parties unless the Customer has given his express written approval.

12.2. Assigning payment claims shall be permitted only if the Customer has given his express written approval.

#### 13. Applicable law and legal venue

13.1. The parties agree on exclusive applicability of Austrian substantive law and exclusion of UN Sales Law.

13.2. The parties agree on the court in Vienna having jurisdiction over the subject matter as the legal venue for all disputes with respect to effectiveness, conclusion and interpretation of agreements.

13.3. For all services of any kind, in particular deliveries and payments, the place of performance is the production site of the respective Customer, unless otherwise agreed.

#### 14. Other provisions

14.1. The Supplier confirms that he is acting in accordance with the Compliance Guidelines of the Customer. Furthermore, the Supplier confirms that he has not entered into or will not enter into any unlawful competition agreements or other unlawful agreements in the future. Should it subsequently turn out that the Supplier has violated this promise, the Customer shall be at liberty to assert all claims arising therefrom in full, whereby the Supplier shall in any case waive the objection of limitation.

14.2. The Customer shall be entitled to store and process data about the Supplier received with regard to the business relations or in connection therewith, regardless of whether these originate from the Supplier himself or from third parties, within the meaning of the General Data Protection Regulation (GDPR). The Supplier agrees that the Customer has the right to store detailed information on quantities, articles, turnover as well as the name and address of the Supplier and to pass this on internally in order to safeguard his own claims and to comply with his own obligations, in particular also in the project business.

14.3. If any clause of these Terms and Conditions of Purchase is or becomes ineffective or if the Terms and Conditions of Purchase should be incomplete, the remaining provisions shall not be affected. The ineffective provision shall be replaced by an effective provision which comes as close as possible to the spirit and the purpose of the ineffective provision in a legally effective way.

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## (2) Amendments

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Version No.	Description of amendments
1	Replaces DB-BEP-25-4 from 2011