



# **General Terms and Conditions of BERNSTEIN AG**

State: 01/01/2025

### **I. General**

1. The following conditions are the part of the contract. Any conflicting terms and conditions of the customer shall only become legally valid if we have expressly acknowledged these in writing.
2. Any purchasing terms and conditions of the customer are hereby rejected. We shall not be bound by such terms and conditions, even if they are not expressly rejected again when the contract is agreed. Our terms and conditions shall be deemed to have been accepted at the latest upon acceptance of our goods.
3. In the event of non-compliance with the terms and conditions, in particular in the event of default of payment by the buyer, we shall be entitled to suspend the fulfilment of existing orders in whole or in part until the terms and conditions have been fulfilled, or to withdraw from orders not yet fulfilled. Subsidiary agreements shall only be effective if they are confirmed in writing.
4. Our offers are always subject to change and non-binding, unless expressly agreed otherwise. Our order confirmation is conclusive for the type and scope.
2. Offsetting and retention as a result of any counterclaims of the buyer are not accepted, unless the counterclaims are undisputed or legally established.
3. We shall only accept bills of exchange and checks on account of payment. Checks shall only be considered cash payment if they are sent to us in time to be cashed within the payment deadlines mentioned above. Postdated checks shall not be accepted as payment.
4. We reserve the right not to accept payment by acceptance or note receivable. In all other respects, the general banking conditions shall apply. The interest rates of our banks are calculated until the due date of the counterfoils.
5. Stamp fees for bills of exchange shall be borne by the customer. Cash account shall not be granted for bill payments. In the event of late payment, we shall charge interest on arrears in the amount of the interest customary at our banks plus commission and costs for drawing on credit in current account; further interest on arrears shall remain unaffected by this. Interest shall not be paid for advance payments and payments on account.

### **II. Prices**

1. Prices are ex works and excluding packaging. Our quoted prices are only valid in connection with the quoted packaging units.
2. The minimum price per order is €150, even if the sum of the individual prices does not reach this minimum order value.
3. In the event of changes to the price basis occurring up to the delivery date, for example, as a result of price or wage increases, we reserve the right to adjust the prices accordingly.
4. For orders for which no price has been agreed, our prices that are valid on the day of delivery shall apply. For partial deliveries, each individual delivery shall be invoiced separately.
5. For the sending of paper invoices, which are issued in exceptional circumstances at the customer's request, we charge €5 per invoice sent.
6. Non-compliance with the terms of payment, default of payment or circumstances which are likely to reduce the creditworthiness shall result in the immediate falling due of all our claims.
7. Such circumstances shall entitle us to carry out outstanding deliveries only against advance payment, to withdraw from the contract after a reasonable grace period or to claim damages for non-performance, and furthermore to prohibit the buyer from any resale or processing of the goods delivered under retention of title and to repossess the individual items without having to declare withdrawal from the contract or to have declared withdrawal beforehand.
8. Taking back the goods shall only constitute a withdrawal from the contract if this is expressly declared in writing. Any costs we incur as a result of taking back the goods shall in any case be borne by the buyer.
9. The buyer can only demand the delivery of the goods that have been taken back without a written declaration of withdrawal once the purchase price and all costs have been paid in full.

### **III. Terms and conditions of payment**

1. Our invoices are sent electronically and are payable within 30 days net cash, without any deduction for postage or expenses. Payment must be made regardless of the receipt of the goods and any notice of defects.

#### **IV. Retention of title**

1. Our deliveries are made exclusively under retention of title. Ownership shall not pass to the buyer until they have settled all their liabilities arising from our deliveries of goods. The same applies if the purchase price has been paid for certain deliveries of goods designated by the buyer.
2. In the case of a current account, the property subject to retention of title shall be deemed security for our balance claim. Processing or treatment of goods delivered by us, which are still our property, shall always be carried out on our account, without any liabilities arising for us as a result.
3. We are entitled to withdraw from the contract and to take back the goods if the buyer violates their obligations. Taking back goods or assertion of the retention of title does not require withdrawal from the contract. Withdrawal is not already implied in the taking back of goods or assertion of the retention of title.
4. If the goods delivered by us are processed with other objects, the buyer hereby assigns to us their ownership or co-ownership rights to the new object and shall hold it in safe custody for us with due commercial care.
5. The buyer is only allowed to sell the delivered goods in the ordinary course of business and only if their customer has not excluded the assignment of the claim arising from the resale or has not given their consent to the assignment. The buyer is not allowed to transfer ownership by way of security or to pledge the goods that are subject to retention of title.
6. The buyer shall notify us without delay of any impending or executed seizure or any other impairment of our rights by third parties, in particular, of the existence of blanket assignments.
7. If the buyer sells the goods delivered by us on their own – regardless of their condition – they hereby assign to us the claims against their customers arising from the sale with all rights, excluding profit margin and claims from assembly, until all our claims arising from deliveries of goods have been settled in full.
8. If the sale of our goods subject to retention of title takes place together with the sale of goods that do not belong to us and/or in connection with other services than the assembly of the goods subject to retention of title, the assignment of the claim shall be limited to the amount of the invoice value invoiced

by us to the buyer for the goods subject to retention of title.

9. The customer is authorised to collect the claim assigned to us by way of this advance assignment on our behalf, provided they meet their payment obligation to us in accordance with the contract. We reserve the right to revoke, at any time, the customer's authorisation to collect the claim.
10. We shall be entitled, at our discretion, to disclose the assignment to third-party debtors. The buyer is obliged to provide us with the necessary information and hand over documents in order to assert our rights. If the value of our securities exceeds our claims by more than 20%, we shall release excess securities at our discretion at the buyer's request.

#### **V. Dimensions and other technical values**

1. Illustrations, dimensions and technical data in our lists, catalogues and quotes as well as order confirmations are only approximate. No guarantee is given for compliance.

#### **VI. Models and samples**

1. Models and samples which we produce by order of our customers shall remain our property, even if pro rata development costs have been charged for them, until all resulting claims against our customers have been settled.
2. We shall store samples sent to us for orders at the owner's risk. They shall not be insured by us in any way.

#### **VII. Packaging and disposal**

1. Our goods shall be packaged at our discretion in a manner that is customary in the industry, at the buyer's expense. Packaging shall be charged at cost price.
2. Claims for defects in the packaging cannot be made against us if the packaging was done in our usual manner.
3. We use the service provider EKO-PUNKT Transportverpackungen GmbH & Co. KG to fulfil our take-back obligation in accordance with § 15 VerpackG. Please get in touch with your sales representative if you would like us to take back packaging.
4. Product take-backs by BERNSTEIN are performed for item categories that are registered with the EAR Foundation. This concerns (according to Elek-

tro- und Elektronikgerätegesetz (ElektroG) § 2) devices of category 5 “small monitoring and control instruments” (switches and sensors with electronic signal processing) as well as possibly devices of category 4 “large monitoring and control instruments” (such as housing with built-in signal light). Old equipment that was introduced to the market before 13 August 2005 is excluded from being taken back. The production marking on the type plate of the relevant product shall be used to identify the date of manufacture. If you wish to return your electrical or electronic equipment purchased from BERNSTEIN to us for disposal, please contact your sales representative or [info@bernstein.eu](mailto:info@bernstein.eu).

### **VIII. Delivery**

1. The shipment of our goods shall for the account of the buyer. Unless otherwise agreed, the shipping route, mode of transport and means of transport shall be left to our choice under exclusion of our liability.
2. The transport risk shall be borne by the buyer in any event. If the delivery was effected in accordance with the order, we reserve the right to charge a reasonable handling fee for the return of the goods.

### **IX. Delivery time and obstacles to delivery**

1. The delivery time specifications should always be considered approximate. If, exceptionally, a binding delivery time has been agreed, this shall commence on the date of the order confirmation, but not before clarification of all the details of execution.
2. Exceeding of the deadline or of an agreed date only gives the buyer the right to set a reasonable grace period by registered letter and to withdraw from the contract in case of non-performance. This does not apply if claims for damages, such as in the event of intent or gross negligence, are indispensable.
3. A right of withdrawal shall apply only insofar as we are responsible for the delay in delivery. Insofar as delivery is impossible, the buyer may only claim damages insofar as we are responsible for the impossibility.
4. Claims for damages shall be limited to 10% of the value of the part of the delivery which cannot be put into useful operation due to impossibility.
5. Insofar as our own operations have been affected by strikes, lockouts or the occurrence of unforeseen hindrances beyond our control, the buyer may require

us to declare whether we wish to withdraw from the contract or deliver within a reasonable period of time. If we do not make such a declaration, the contractual partner may withdraw. The customer cannot hold us responsible under any circumstances for any damage incurred.

### **X. Notice of defects and warranty**

1. Notice of defects must be given immediately and is excluded if not received by us within two weeks after receipt of the delivery. This applies in particular to defects regarding the external quality and completeness of the delivery. These can no longer be asserted once the specified period has expired.
2. Other defects can still be asserted after expiry of the deadline, provided that they could not have been discovered within this period even after careful inspection. Such defects must be reported immediately, but no later than one week after discovery of the defect, and subject to immediate cessation of installation in machines or other equipment.
3. Once 12 months have expired after delivery, claims for defects can no longer be asserted. We shall be given the opportunity to inspect or determine the defect about which a complaint is made.
4. Warranty claims shall become time-barred one month after rejection of the notice of defects.
5. Without our express consent, no changes may be made to the part about which a complaint is made in the event of loss of warranty.
6. We may, at our discretion, either repair defective parts free of charge or replace them with other parts free of charge against carriage-paid return.
7. If these measures do not lead to successful resolution, the buyer may, at their discretion, reduce the remuneration or demand withdrawal from the contract.
8. Insofar as we have given a guarantee for the proper functioning of our products, this guarantee shall only apply if the products are used for their intended purpose in compliance with the specified values and if they have been properly and correctly installed.
9. Natural wear and tear and other causes beyond our control, such as improper handling, overuse, overloading, etc., shall exempt us from any liability.
10. The buyer's warranty claims are limited to supplementary performance, unless supplementary performance has failed twice. In this case, the buyer shall be

allowed to limit or withdraw from the contract.

11. The buyer shall not be entitled to demand that we bear the expenses necessary for subsequent performance insofar as such expenses are based on the fact that the goods have subsequently been taken to a place other than the buyer's place of business, unless such a transfer is in accordance with the intended use of the goods.
12. The buyer's statutory rights of recourse shall be in place at most to the extent that the buyer has not entered into any agreements with their customer that exceed the statutory claims for defects.
13. The aforementioned limitation shall apply to the scope of reimbursement of expenses that were necessary for subsequent performance.

#### **XI. Damages**

1. provided that the damage is not based on an intentional or grossly negligent breach of duty by one of our legal representatives or vicarious agents, and that the damage does not result from injury to life, body or health based on a negligent breach of duty by one of our legal representatives or vicarious agents.

#### **XII. Standing contracts and call-off orders**

1. Standing contracts and call-off orders in the case of contracts providing for a longer settlement period, or in the case of call-off orders, call-off orders and corresponding specifications for approximately equal monthly quantities shall be placed with us.
2. If call-off or specification is not made in due time within a period to be determined by us, we shall be entitled either to deliver at our discretion without call-off and to charge the prices valid on the day of delivery or, after setting a deadline to no avail, to

claim damages for non-performance or to withdraw from the part of the contract in arrears.

#### **XIII. Data processing**

1. In accordance with Sections 26 and 34 of the German Federal Data Protection Act (BDSG), we notify you that we store data relating to your company, insofar as this is necessary for business purposes and is permissible within the framework of the law, either with ourselves or with third parties.

#### **XIV. Place of performance and jurisdiction**

1. The place of performance for deliveries and payments as well as the place of jurisdiction is Minden/Westphalia. The contractual relationships shall be governed by German law.

#### **BERNSTEIN AG**