

GENERAL TERMS AND CONDITIONS OF SALE

Article 1: General

1. The present general terms and conditions of sale apply to each price quotation, each agreement with, and all deliveries made by, the public limited liability company BALAK FENCES, hereinafter referred to as BF.
2. All price quotes / price lists are without obligation and can never be regarded as an offer, unless expressly stated otherwise elsewhere.
3. The agreement arises directly on BF's acceptance of the client's order, either expressly via written confirmation, or tacitly, which may then only be derived from (the commencement of) the processing of the order.
4. If reserves or amendments relating to the price quote/price lists are included in the client's order, these deviations only apply if BF has expressly approved them in writing.

In deviation from 1.3 there can never be any tacit acceptance of deviations on the part of BF.

5. General terms and conditions of the client shall only constitute part of the agreement, if they have been expressly accepted by BF in writing.

Article 2: Amendments

1. Amendments to the agreement and / or deviations from these general conditions only come into force if they have been agreed between the parties in writing.
2. Any deviations and / or alleged errors in the order forms, order confirmations and / or price lists received by the client must be notified to BF in writing, within 2 working days of dispatch of the aforesaid documents. Failing this, they will be considered as having been approved.

If the delivery date confirmed by BF is within this period, any deviations and / or alleged errors in the order forms, order confirmations and / or price overviews received by the client must be notified by the client at latest within 1 working day prior to delivery in writing.

Following notification BF is entitled to withdraw these orders, order confirmations and / or price overviews.

3. BF is competent within reasonable limits to amend the quantity, measures and so forth.

Article 3: Price

1. The price is calculated net cash for supply from the factory (Incoterms – EXW)
2. In as much the client expressly requests BF to organise the transportation of the goods, this is always at the risk of and for the account of the client, therefore delivery EXW always applies.
3. If following the arising of the agreement as foreseen under Art. 1.4, the prices BF as a selling organisation pays to its supplier have increased, as the result of increase in the price of equipment, raw materials, energy, wages and so forth, BF is entitled to adapt the prices for the client accordingly.
4. Prices mentioned by BF are always without V.A.T.
5. The goods are to remain the property of BF until they have been paid for in full. The reservation of ownership is to be considered as expressly accepted. Therefore, in the event of sale of the goods not yet paid for, the claim which BF has against the client shall transfer to the claim which the client thus obtains with respect to its third party-client.

If BF is obliged to invoke its reservation of ownership rights, and proceeds to take back the delivered goods, or to recuperate the claim, which has arisen against a third party-client, BF shall draw up a credit note for the goods recuperated in this manner or their value, which is the original sum invoiced after deduction of the costs incurred for inter alia the retrieval of the goods. These costs are to be estimated as a fixed sum of 10 % of the value of the retrieved goods, without prejudice to BF's right to prove higher costs.

Article 4: Delivery and Risks

1. The goods are to be considered as having been validly delivered, when they are ready for dispatch and the client has been informed of this. (EXW)
2. Directly after the goods have been delivered, the risk of all direct and indirect damages to the goods, regardless of the cause and originator, is for the account of the client.
3. When the client has not taken possession of the goods himself or by other means within 7 days of delivery, BF has the right to dispatch the goods to his address at the expense and risk of the client.

Article 5: Payment

1. Reserving written deviations, the client is obliged to pay the invoice sum in cash to BF.
2. If the client fails to pay the full sum to BF within the agreed period, he is considered to be lawfully in default, regardless of the reason for non-payment, and also immediately owes a fixed sum of compensation of 10 %, as well as 12 % annual interest on the outstanding amount.
3. At all times, also after concluding the agreement, BF has the right to state payment in cash on delivery, to ask payment in advance, to demand security for a payment or to impose otherwise different payment conditions.
4. Payments by the client are first used to pay the damages, the calculated interest, and costs owed by the client to BF, and then the outstanding invoices, with the longest outstanding invoices being paid off first.

If the set payment conditions are not met, BF may transfer the claim to its credit broker.

Article 6: Complaints and Guarantee

1. The guarantee provided by BF is that which it receives from the manufacturer. It relates exclusively to the soundness of the execution of the work.

Slight deviations permitted in commercial practice or deviations in quality, quantity, colour, finish, size etc. unavoidable due to technical reasons, do not constitute grounds for dispute or refusal of the goods.

2. a) The client must inspect the goods for flaws immediately after delivery. Visible flaws must be reported to BF in writing immediately after delivery.
2. b) In as much as, and without prejudice to the application of Art.3.1, the goods are sent at the risk of and at the instruction of the client, the client must inspect the goods for flaws immediately after delivery, and mention visible flaws on the CMR delivery note, and report this within 24 hours of conducting the transport, in writing to BF accompanied by the necessary evidential documents (photos etc.).
3. In as much as BF considers the complaint to be founded, BF may choose either to repair or replace the goods, or to credit their value and accept the goods back within a reasonable period.

The amount credited is limited to the price of the goods in question.

BF is not obliged to provide any other additional compensation of any kind, (compensation, refund, costs incurred, etc.).

4. For concealed flaws the guarantee given by the manufacturer applies.

Article 7: Disbandment

1. If it is hindered in the execution of the agreement by force majeure, BF has the right to suspend the execution of the agreement without the intervention of the courts, or to regard the agreement as completely or partially disbanded without being held liable for any sum of compensation.

Force majeure is interpreted as any circumstance, as the result of which BF cannot reasonably be required to respect the agreement, including external disruptions, as well as disruptions suffered by the suppliers of BF.

2. If the client fails to meet properly or punctually any obligation, which arises for him out of this or out of any other agreement concluded with BF, and also in the event of bankruptcy, judicial re-organisation, closure or liquidation of the client's company, he is to be considered as being legally in default, and BF will then be entitled to suspend execution of the agreement, without notice of default and without the intervention of the courts, or to regard the latter as completely or partially disbanded, without any liability for damages.

In this case each claim, which BF still holds against the client, becomes immediately due.

3. In as much as, as a result of the stipulations of Art. 7.2 the client remains in default he is, legally and without notice of default, due a fixed sum of compensation of 10 %, calculated on the value of the agreement.

Article 8: Nullity

1. The nullity of any stipulation of the present conditions does not affect the other stipulations.

Article 9: Applicable Law – Jurisdiction

1. The Parties recognise that the present agreement, and all of the agreements arising from it, are subject to Belgian law.

2. All disputes, which arise concerning the interpretation, execution and / or termination of the agreement, are to be subject to the judgement of the Belgian courts within the judicial district of Hasselt.