

BEHAbelt USA Corporation Delivery and Business Terms and Conditions

1. General

- 1.1 These Delivery and Business Terms are part of each quotation or estimate issued by BEHAbelt USA Corporation, including any of its current or subsequent parents, subsidiaries, or affiliates (collectively, "Company") to the buyer of such products or services ("Customer") and are the sole terms and conditions for the sale of products or services by Company. Any provision in a purchase order, confirming order, or other acknowledgment that is inconsistent with these Terms and Conditions is rejected and shall have no force or effect. If Company nevertheless is deemed to have accepted an offer by Purchaser, then Company's acceptance is expressly conditional upon Customer's assent to all terms herein that are additional to or different from the terms of Customer's offer. Company disclaims, objects to, and rejects any Customer document, including any purchase order, confirming order, or other acknowledgment, that is inconsistent with, adds to, or in any other way attempts to alter these Terms and Conditions.
- 1.2 No course of prior or current dealings between the parties and no usage of trade shall be relevant to supplement or explain these Terms and Conditions. In the event of any dispute between these Terms and Conditions and Customer's document, these Terms and Conditions shall control. These Terms and Conditions may only be amended by a writing signed by duly authorized officers of Company and Customer.

2. Offer and Scope of the Delivery

- 2.1 Our offers are non-binding.
- 2.2 Orders shall be considered as having been accepted if we have confirmed them in writing.
- 2.3 Our written order confirmation shall be prevailing for the scope of the delivery. Any collateral agreements and amendments require our written confirmation. If no separate order confirmation is prepared, the delivery note or invoice shall be considered to be the order confirmation.
- 2.4 We retain the ownership- and copyright-related rights of exploitation to the cost estimates, drawings, model devices and other documents in unrestricted fashion; they may not be made accessible to third parties. Drawings, model devices and other documents related to the offers must be returned immediately upon request if we are not awarded the order.
- 2.5 We reserve the right to make deviations of an immaterial nature from submitted models, further developments in production and model modifications, provided that they are reasonable for the Customer while taking its interests into account.

3. Prices

- 3.1 In the absence of a special agreement, prices shall be considered to be ex works, excluding packaging and assurance.
- 3.2 Packaging shall be billed at cost. Provided that we, in accordance with Paragraph 4 of the packaging regulations, are obliged to take back the packaging used in transport, the Customer shall assume the costs for the return transport of the packaging used.
- 3.3 The applicable price does not include applicable taxes such as city, state or federal, sales, use, value added, or excise taxes, or tariffs. All taxes and charges shall be Customer's responsibility and may be added to the invoice as a separate and additional charge to Customer unless an acceptable exemption certificate is presented to Company. Company shall also have the right to separately bill Customer, at any time, for any taxes and charges that are attributable to this sale that the Company may be required to pay. Customer shall reimburse Company on demand for all such amounts.

4. Payment

- 4.1 Payment must be made within 30 days from the receipt of the invoice with no deductions and in the agreed-upon currency. Payments for repairs are immediately due and payable with no deductions. The timeliness of the payment shall be based upon when we receive the monies; if payments are made by check, the payment shall only then be considered to have been made when the check is cashed.
- 4.2 In the event that payment timeframes are not met, payment default interest shall be charged at 1.5% per month from the due date, or the maximum rate permitted by applicable law, whichever is lower. The assertion of any more substantial payment default damages is not hereby excluded.
- 4.3 Settlement of invoices by check and bills of lading shall be made only for payment purposes and requires our prior approval for bills of lading. The Customer shall assume all costs associated with bills of lading and checks. We shall assume no liability for the timeliness of our objections to the payment method used by the Customer.
- 4.4 If the Customer enters into default with regards to the payments it is obliged to make in accordance with this agreement or its financial situation subsequently deteriorates, we shall only render further performances contingent upon the immediate settlement of our payment claims or against the provision of valuable securities. If the Customer rejects the demand for the provision of appropriate security, we shall be entitled to withdraw from the agreement after the expiration of an appropriate notice period.

- 4.5 The Customer is not permitted to withhold payments or to offset against its payment obligations due to any of the Customer's counterclaims which we dispute and have not been legally upheld.

5. Delivery Timeframe and Delivery Hindrances

- 5.1 Shipping dates are approximate and are based upon the prompt receipt of all necessary information.
- 5.2 Company will use commercially reasonable efforts to supply Customer with goods offered by Company and ordered by Customer. If Customer causes or requests delay in the shipment of products, Customer shall pay Company for all expenses and losses of Company resulting therefrom. In times of short supply, Company is entitled to allocate products among its customers as it determines, in its sole discretion, to be appropriate under the circumstances. Under no circumstances will Company be liable for any failure to deliver goods ordered by Customer that is caused by the lack of availability of necessary raw materials.
- 5.3 For the delivery timeframes, all reservations shall apply which may be derived from unforeseeable hindrances, including in our own factory as well as in those of our own suppliers, and due to force majeure. Included among these are all unforeseeable events such as, governmental interventions, operational disruptions, labor struggles, delays in incoming deliveries and production, war, catastrophes, etc. In these cases, Company shall be entitled to postpone the delivery and/or other performances for the duration of the hindrance in addition to an appropriate start-up period or to withdraw from the agreement without the Customer being entitled to demand damage compensation for this. If the hindrance lasts longer than three months, the Customer shall be entitled, after an appropriate extension period has been set, to withdraw from that portion of the agreement that has not yet been fulfilled.
- 5.4 Partial deliveries of a reasonable scope are permitted.
- 5.5 If the deliveries are not accepted in a timely manner, we shall be entitled to immediately bill for the delivery and any additional costs incurred (for example, through storage). Call-off orders shall be for a maximum term of one year and must be accepted within this timeframe. The minimum call-off order timeframe is 30 days.

6. Transfer of Risk and Shipping

- 6.1 Risk of loss to the goods or products will pass to Customer when the goods or products are shipped; provided, however, that Company shall retain a purchase-money security interest in the goods or products as security for Customer's performance until payment in full is received. Customer shall pay or promptly reimburse Company for all transportation, freight, handling, special handling, delivery and insurance costs and for all federal, state, provincial and local taxes (including sales, use, value-added and excise taxes), assessments, tariffs, duties and any other fiscal contribution of similar import related to the sale, use, shipment, transportation or delivery of the goods or products.
- 6.2 If the shipment is delayed due to circumstances for which the Customer is responsible, then the risk shall be transferred to the Customer from the date that the goods are ready for shipping and Customer shall be responsible for and subject to storage charges.

7. Complaints/Warranties

- 7.1 Company warrants to original Customer that all goods produced by Company shall be free under normal use from defects in material or workmanship at the time of delivery to Customer for a period of 12 months from the time delivery is made, with the exception of parts subject to wear and tear. A warranty for repairs is provided for a period of 6 months on parts and labor from the time delivery is made, with the exception of parts subject to wear and tear.
- 7.2 A warranty liability shall only then apply if we are immediately notified in writing of a defect after its discovery. The item about which a notification of defects has been made must be turned over to us for inspection or made available to us at any time.
- 7.3 The Customer shall be obliged to immediately inspect the goods upon their receipt and to make written notification of any defects within 10 calendar days of the receipt of the goods.
- 7.4 If such objections are justified, we shall have the choice of making a rectification or a replacement delivery. Covering purchases are excluded. The Buyer shall not be entitled to rescind the agreement or make reduced payments as long as we fulfil our obligation to eliminate defects and the rectification has not been unsuccessful. The Customer shall bear the burden of proof for the unsuccessfulness of an attempt at rectification.
- 7.5 Replacement deliveries shall be made contingent upon the return of the original delivery. If this is not possible for the Customer, then it shall be obliged to provide compensation for lost value instead of making the return. Return shipments may be made only with our approval.

7.6 DISCLAIMER: EXCEPT FOR THE WARRANTIES SET FORTH IN SECTIONS 7.1 and 7.2, COMPANY MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE PRODUCTS, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE. WE ASSUME NO LIABILITY FOR THE CONSEQUENCES OF ANY MODIFICATIONS OF OR REPAIRS TO THE DELIVERED GOODS WHICH HAVE BEEN IMPROPERLY MADE BY THE CUSTOMER OR THIRD PARTIES WITHOUT OUR PRIOR APPROVAL.

8. LIMITATION OF LIABILITY:

COMPANY SHALL NOT BE LIABLE, IN CONTRACT, TORT, OR OTHERWISE, FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, LOST PROFITS, OR INCREASED OPERATING OR MAINTENANCE EXPENSE) ARISING FROM OR RELATED TO COMPANY'S PROVISION OF GOODS OR SERVICES. THE LIABILITY OF THE COMPANY ARISING OUT OF THE SUPPLYING OF SAID GOOD, OR ITS USE, WHETHER ON WARRANTIES, CONTRACT, NEGLIGENCE OR OTHERWISE, SHALL NOT IN ANY CASE EXCEED THE CONTRACT PRICE OF THE PRODUCT HEREIN PROVIDED, AND UPON THE EXPIRATION OF THE APPLICABLE WARRANTY PERIOD SPECIFIED HEREIN, ALL SUCH LIABILITY SHALL TERMINATE. THE FOREGOING IS THE SOLE AND EXCLUSIVE REMEDY OF THE CUSTOMER AND THE SOLE AND EXCLUSIVE LIABILITY OF THE COMPANY.

9. Retention of Ownership; Security Interest

- 9.1 Title to the good or products will pass to Customer upon Company's receipt of full payment.
- 9.2 In addition to any security interest granted by the Uniform Commercial Code or other law, Customer grants a security interest to Company in all goods and documents related thereto and proceeds and products therefrom to secure all obligations of Customer to Company, whether or not arising under these Terms and Conditions or this Agreement. Company may file a financing statement. Further, if requested by Company, Customer shall sign financing statements and other documents evidencing and confirming such security interest. Customer grants Company an irrevocable power of attorney to file a financing statement in Customer's name if necessary or convenient to perfect Company's security interest. Until the goods are paid in full, Customer shall not change the location of any goods from the original delivery point without prior written notice to Company. In case of a default by Customer, Customer hereby irrevocably appoints Company as Customer's agent to obtain possession of the goods and any related documents. Customer shall immediately advise Company in writing of any damage to, change in location of, or seizure of, any of the goods the price of which have not been paid to Seller.
- 9.3 Company has the right to demand the return of the goods, to sell them elsewhere or to otherwise dispose of them if the Customer enters into default in the payment of the purchase price.
- 9.4 As long as the purchase price has not been paid in full, the Customer must hold the goods in trust for us and maintain the goods separately from its ownership and the ownership of third parties as well as to properly store, safeguard and insure the reserved goods.
- 9.5 In the event of attachment of any liens or other interventions upon the part of third parties with respect to the reserved goods, the Customer must immediately notify us so that we can assert our rights to the reserved goods. If the Customer does not fulfil this obligation, it shall be liable for any damages incurred.

10. Indemnification

- 10.1 Customer shall indemnify, defend, and hold Company, its agents and employees harmless from all claims, liabilities, and expenses, including but not limited to actual attorney fees, sustained by Customer or its agents or employees that are caused by any action of Customer relating to the goods or services sold by Company to Customer.
- 10.2 Customer shall indemnify, defend, and hold Company, its agents and employees harmless from all claims, liabilities, and expenses, including but not limited to actual attorney fees, arising out of any claim of infringement of a patent, copyright, trademark, trade name, or other proprietary right, or claim of unfair trade or of unfair competition in connection with the manufacture, sale, or use of the goods sold to Customer, except to the extent that any claim, liability, or expense arises solely from specifications developed by Company.

11. Further Rights of Rescission upon the Part of the Customer

- 11.1 The Customer may withdraw from the agreement if the entire performance ultimately becomes impossible for the Company before risk is transferred. The same shall apply in the event of our inability to render performance, unless such inability is the result of a force majeure event. The Customer may also then withdraw from the agreement if, in the event that similar goods are ordered, the execution of a portion of the delivery becomes impossible based upon the quantities involved and it has an entitled interest in the rejection of a partial delivery; if this is not the case, then the Customer may correspondingly reduce the counterperformance. In the event the Customer withdraws or cancels the agreement, then: (a) any goods or services completed at the time Company receives a written cancellation notice from Customer will be paid for by Customer at the contract price; and (b) Company will stop work on the balance of the order as promptly as reasonably practical, and Customer shall reimburse Company for all expenditures, commitments, liabilities and costs, made or incurred by Company with respect to the cancellation.

- 11.2 If the impossibility occurs during the period of default in delivery acceptance or due to the fault of the Customer, then the Customer shall remain obliged to render counter-performance.

12. Customer's Default; Company's Remedies

- 12.1 Customer is in default if any of the following occurs:
- (a) Customer breaches, repudiates, or threatens to breach any term in the contract evidenced by this document or in any other agreement between Customer and Company, including but not limited to a failure to pay all sums when due;
 - (b) Insolvency of Customer or filing a voluntary or involuntary petition in bankruptcy with respect to Customer;
 - (c) Appointment of a receiver or trustee for Customer;
 - (d) Customer's credit becomes impaired;
 - (e) Customer fails or refuses to furnish to Company such information and assurances as Company may reasonably request about Customer's financial condition; or
 - (f) Execution of an assignment for the benefit of creditors of Purchaser.
- 12.2 In the event of Customer's default, Company may exercise any remedies available under applicable law, including but not limited to the following remedies:
- (a) Company may require cash payment in advance of shipment of any goods;
 - (b) Company may ship goods only via C.O.D.;
 - (c) Company may suspend performance or cancel all or any part of the balance of any contract with the Customer;
 - (d) Company may reduce any unpaid debt of Customer by enforcing its security interest, created hereby, in all goods (and proceeds therefrom) furnished by Company to Customer;
 - (e) Company may take any other steps necessary or desirable to secure Company fully with respect to Customer's payment for goods furnished or to be furnished by Company to Customer; and
 - (f) Customer shall reimburse Company for all damages suffered due to Customer's breach, including but not limited to incidental, consequential, and other damages, as well as lost profits, reasonable attorney fees, and court costs.
- 12.3 The remedies in this document shall be cumulative and in addition to any other remedies allowed to Company under applicable law. No waiver by Company of any breach or remedy shall be a waiver of any other breach or remedy.

13. Governing Law; Jurisdiction

These Terms and Conditions and the contract created by the acceptance thereof are governed by and shall be construed in accordance with the laws of the State of Illinois, excluding its choice of law rules. Any action based upon or arising out of this order must be brought in either a state court of competent subject matter jurisdiction located in the State of Illinois, or a federal court of competent subject matter jurisdiction located in the Northern District of Illinois. Purchaser irrevocably consents to personal jurisdiction in such courts and waives any objection that such courts are an inconvenient forum. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this order or any contract.

14. Severability Clause

In the event that a provision of these Terms and Conditions should be invalid or null and void, then the validity of the remaining provisions shall remain unaffected. Amendments of these contractual terms and conditions and collateral agreements must be in writing. This shall also apply for the repealing of the written form requirement.

15. Entire Agreement

This agreement contains the entire agreement between the Company and the Customer respecting the subject matter hereof and any representation, promise, condition, or understanding not contained herein shall not be binding upon either party.

Edition: September 2021

BEHAbelt USA Corporation
Delivery and Business
Terms and Conditions