

General Terms and Conditions of Sale and Delivery of Biesterfeld Companies in Poland

These General Terms and Conditions of Sale and Delivery (hereinafter: GTC) shall apply to all contracts for the sale of goods whereby the seller is a company of the Biesterfeld Group operating in Poland.

No release of goods by Biesterfeld shall be construed as acceptance of the Buyer's trading conditions.

By placing a purchase order, the Buyer accepts the GTC.

Article 1 Conclusion of Contract, Delivery

1. The Buyer's purchase orders shall be placed in writing or via email.
2. Purchase orders shall become binding for Biesterfeld if they are confirmed in writing. The same shall apply to changes, additions and additional arrangements related to the purchase orders being placed.
3. Wherever possible, Biesterfeld shall meet delivery dates; however, in the absence of a binding confirmation, the delivery dates shall be approximate dates only.
4. For the deliveries that are executed outside Biesterfeld's facilities (direct shipment), delivery dates and delivery times shall be deemed to have been met if the goods leave the manufacturer's or Biesterfeld's sub-supplier's facilities at a time which, assuming a normal course of delivery, allows them to be delivered to the Buyer on time.
5. Biesterfeld reserves the right to make partial deliveries and deliveries of goods with quantity deviations of +/- 10%, as compared to the quantity agreed between the parties, due to the requirements of the filling process. Should larger margins of tolerance be customary for certain products, such deviations shall be deemed to be in compliance with the contract. Quantity deviations shall be included in sales invoices accordingly.
6. If an export or import permit is required for the delivery of goods, the Buyer shall provide Biesterfeld with all information required to apply for such permit (in particular an end-user statement containing information on the intended purpose of the goods). Should the Buyer not comply, or not fully comply, with the aforesaid cooperation obligation, it shall be solely responsible for any delays in the delivery arising therefrom. Moreover, the Buyer shall strictly comply with the regulations of the national and international foreign trade laws, and in particular use the delivered goods only for the purposes specified by the manufacturer and not sell or otherwise transfer them to persons, companies, organisations or institutions included in EU or US sanction lists. Should the Buyer violate any of the aforesaid provisions, it shall be fully liable for the damage arising therefrom, and it shall fully indemnify Biesterfeld against any third party claims filed against it on this account.

Article 2 Prices and Payments

1. The prices quoted by Biesterfeld are net of VAT, which is calculated and added in accordance with the applicable laws. Any changes in duties, taxes or other charges made after the conclusion of the contract shall be borne by the Buyer, insofar as they are directly related to the delivered goods.
2. The payment shall become due no later than on the payment date specified in the invoice. Any delayed payment shall allow Biesterfeld to charge statutory default interest without prior notice or request.
3. The Buyer may not make any deductions from Biesterfeld's claims without the prior consent of Biesterfeld, other than those that have been finally determined by the court. The fact that the Buyer has lodged a complaint shall not release it from the obligation to pay the amount due, unless Biesterfeld has acknowledged the complaint in writing. If the complaint has been resolved in the Buyer's favour after the Buyer has paid for the goods complained about, it may apply for a refund of the amount paid over the price, if any.
4. Despite the confirmation of a purchase order, Biesterfeld may withhold the delivery of all or some goods if the Buyer is in arrears with payment for another delivery, unless the parties agree otherwise in writing.

Article 3 Delivery

1. Biesterfeld shall be responsible for the transportation of goods to the location specified by the Buyer only where such service has been contracted by Biesterfeld. Delivery terms shall be governed by an individual contract concluded with the client. In each case the Buyer shall be responsible for unloading and placing of the goods in a warehouse, at the Buyer's risk and expense.
2. If the Buyer collects goods from the delivery point by itself, the Buyer shall be responsible for loading of the goods on transport vehicles and for compliance with regulations governing transport of dangerous goods, at the Buyer's risk and expense.
3. For deliveries made in tank trucks or container tanks, the Buyer shall ensure that the tanks or other storage containers are in proper working condition and it shall have, under its own responsibility, the filling pipe connected to its own reception system.
4. If the entities contracted by Biesterfeld to transport goods assist with unloading or emptying of tanks, they shall act at the sole risk of the Buyer and not as persons who have been assigned these tasks by Biesterfeld. Biesterfeld shall not be liable for any damage arising from such activities.

Article 4 Statutory and Implied Warranty

1. The Buyer acknowledges that Biesterfeld acts as a distributor of goods and that the manufacturer is the only party that warrants to the Buyer that the delivered goods meet the criteria set out in their specifications.
2. Biesterfeld shall be liable for physical defects of goods by repairing defective goods or delivering new goods (replacement delivery), at its discretion, provided that the following conditions are met:
 - a) Promptly upon delivery, the Buyer has checked the goods and their packaging for the type, quantity and characteristics, in accordance with commercial practice. For goods delivered in shipping items, the Buyer is additionally obliged to check the labels of each individual item for compliance with the purchase order. For goods delivered in tanks or tank trucks, which do not stay with the Buyer, the Buyer should check the shipping documents for compliance with the purchase order. Before emptying the tanks, the Buyer is obliged to check, using a test sample, whether the quality of goods is consistent with the contract.
 - b) The Buyer should promptly report any defects detected during the inspection to Biesterfeld in writing, by making a relevant annotation in the documents

provided by the carrier, at the latest by the end of the second working day after receiving the goods.

3. Should the Buyer fail to carry out the inspection or should it report a detected or detectable defect after the deadline, the goods shall be deemed to have been accepted with no reservations. The same shall apply to erroneous (incorrect) delivery, including such major non-compliance that the Buyer would not normally accept such goods with no reservations.
4. If a defect is detected later on and, in spite of a thorough inspection, it was undetectable earlier (a hidden defect), such defect shall be reported promptly upon its detection within the deadline provided for in clause 2(b). Otherwise, the goods shall be deemed accepted with no reservations.
5. Unless the Buyer provides Biesterfeld with an opportunity to verify the Buyer's objections, or unless the Buyer promptly provides Biesterfeld, upon request, with the contested goods or samples thereof, Biesterfeld shall not be liable to the Buyer under the statutory warranty.
6. The Buyer's complaints shall be rejected if the delivered goods have been stored incorrectly, used against the manufacturer's recommendations or their shelf life has expired.
7. All recommendations and advice given to the Buyer by Biesterfeld are given in good faith, but do not imply any obligation on the part of Biesterfeld in relation therewith. Before using the goods, the Buyer shall carry out tests to confirm that the given product is suitable for the intended purpose.
8. No catalogues, brochures, price lists or notices may be regarded as offers and are provided by Biesterfeld for information purposes only.
9. The Buyer shall handle goods in accordance with the instructions given in the documentation of such goods supplied by Biesterfeld or the manufacturer. If the Buyer is not yet in possession of such materials or requests information or advice on the safe use of the goods, the Buyer should contact Biesterfeld promptly. The storage of the goods as well as their transportation and use should take account of the recommendations contained in the documentation of such goods. Any non-compliance with these rules shall release Biesterfeld from liability for any decline in the quality of the goods and damage arising therefrom.
10. Biesterfeld's liability under the implied warranty shall be fully excluded.

Article 5 Retention of Title and Limitation of Liability

1. The title to goods shall pass to the Buyer upon the full payment of the purchase price and all other amounts due related to the delivery of the goods. As long as the Buyer correctly fulfils its obligations towards Biesterfeld, i.e., above all, the Buyer is not in arrears with the payment of amounts due to Biesterfeld, the Buyer shall have the right to use the goods in its normal course of business.
2. Biesterfeld shall be entitled, with no need to set an additional deadline or file a notice of withdrawal, to require the Buyer to release retention goods if the Buyer does not fulfil its obligations towards Biesterfeld.
3. To secure Biesterfeld's claims, the Buyer hereby assigns to Biesterfeld any claims against third parties arising from the further use of retention goods (e.g. sale), together with any ancillary rights. If the retention goods are sold together with other items at a total price, the assignment shall be limited pro rata to Biesterfeld's claims only. If the retention goods are processed and sold together with third-party goods, the assignment shall apply to that part of the Buyer's claims which corresponds to Biesterfeld's share in the joint ownership to which Biesterfeld is entitled in this case. If the Buyer uses the retention goods within the framework of a contract for specific work (or similar), the assignment to Biesterfeld shall include claims (remuneration for specific work) in the amount of the value of the goods used for this purpose.
4. Provided that its business is conducted correctly, the Buyer shall have the right to vindicate its claims for the further use of retention goods. Upon Biesterfeld's request, the Buyer shall inform its business partners of the assignment, refrain from disposing of claims, provide Biesterfeld with all necessary information on the stock of goods, the title to which is retained by Biesterfeld, and the claims assigned to Biesterfeld, and shall release all documents required to effectively vindicate the claims. The Buyer shall inform Biesterfeld promptly about any attempts by third parties to access the retention goods and assigned claims.
5. If retention goods are processed by the Buyer or a third party contracted to process the same, Biesterfeld shall acquire the title to semi-finished and finished products, at least in the amount of the price for the goods delivered. In the case of further processing using third party goods, Biesterfeld shall be entitled to a share in joint ownership of the new item, pro rata to the value of Biesterfeld's retained goods being processed.
6. Biesterfeld's liability for any damage related directly or indirectly to the sale of goods shall be limited to the amount of the price plus due VAT paid by the Buyer for the given batch of goods.
7. Biesterfeld's liability for any damage related directly or indirectly to the sale of goods shall be limited to the damage caused by Biesterfeld's wilful misconduct or gross negligence.

Article 6 Force Majeure

Biesterfeld shall not be liable for any delay in delivery or inability to perform the same, including those arising directly or indirectly from reasons attributable to the manufacturer, in particular such as: natural disasters, epidemics or emergency conditions, wars, terrorism, accidents, explosions, nuclear accidents, machine and equipment breakdowns, sabotage, strikes or other disturbances in the availability of labour, official acts or omissions of public authorities, port congestion, shortages of fuel or power supplies, significant shortages of vehicles or any other reasons beyond Biesterfeld's control which make it impossible or excessively burdensome to fulfil the obligations. If the delay caused by one of the aforesaid reasons continues for more than 90 days, both parties agree to discuss in good faith the continuation of the contract and, if they fail to reach a relevant agreement within the next 45 days, either party shall be entitled, upon written notice to the other party, to terminate the contract with regard to the goods that have not been delivered.

Article 7 General Provisions

1. The governing law shall be the law of the Republic of Poland.
2. The parties undertake to comply with the applicable data protection regulations.
3. All disputes, if not resolved amicably, shall be considered by the courts competent for the registered office of Biesterfeld.
4. These GTC shall be effective as of 1 September 2020.