

General Terms and Conditions of Barcol-Air Group AG and its Group Companies

1. Scope

These „General Terms and Conditions“ (hereinafter referred to as „GTC“) shall apply to any legal relationship between ourselves and our customers, even if no specific reference is made thereto. Through written order or conclusion of a contract (e.g. delivery, works, assembly, repair or maintenance contract), the customer acknowledges the binding nature of these GTC. We shall only assume further obligations by express written acknowledgement, which shall always be limited to the individual case. Any terms and conditions of the customer that conflict with these GTC shall only apply if they have been accepted by us in advance in writing on a case-by-case basis. They shall also not apply if we do not expressly reject them. The customer shall draw our attention to statutory, administrative and other regulations and directives, standards and similar that must be observed in the performance of the contract. Obvious errors, spelling mistakes or miscalculations shall not be binding upon us.

2. Conclusion and amendment of contract

Any order for a product or service shall be valid only if confirmed by us in writing in the form of an order confirmation. Our order confirmation shall be binding with regard to the scope and execution of the order. If no counter-notification is received within 8 days of dispatch of the order confirmation, the listed specifications shall be binding. Individual specifications and/or regulations in our order confirmations shall take precedence over the GTC. Any subsequent addition to or amendment of the order by the customer shall only be valid after we provide written confirmation in the form of a new order confirmation and shall constitute an amendment to the contract, which may be reflected in changed offer prices and delivery times.

3. Prices and terms of payment

All of our stated prices are subject to change at any time and without notice. All confirmed prices are based on the market, tax and currency conditions known to us on the date of confirmation. We expressly reserve the right to increase prices as a result of a deterioration in market, tax and currency conditions up to the time of delivery or order fulfilment. All prices exclude value-added tax (VAT). Our prices include our standard packaging, FCA (Free Carrier). The standard packaging will be charged to our customers and will only be credited if it is returned undamaged. Special packaging or packaging according to the customer's wishes will be invoiced at cost. The fees for maintenance work specified in the order confirmation shall be due in advance for the entire term respectively. All costs not included in the maintenance fee will be charged to the customer separately. In the event of non-compliance with the terms of payment, we shall be entitled to immediately discontinue the provision of services in accordance with the maintenance contract and to terminate the maintenance contract with immediate effect. Unless explicitly agreed otherwise, the customer shall pay our invoices within 30 days of the invoice date without any deductions. If the invoice amount is not received by us on the last day of the payment period, the customer shall be in default automatically and without notice of default. Thereafter, we will charge the customer default interest of 5% as well as a contribution towards expenses of CHF 100. The customer shall not be entitled to withhold or reduce payments due on account of complaints, credit notes not yet issued or counterclaims not expressly recognised. Offsetting against counterclaims is not permitted. Payments shall also be made on time if insignificant parts of a delivery or service, which do not render the use of the product or service impossible, are still missing or if reworking is required. The terms of payment must be observed. Rounded-off amounts and unauthorised discount deductions will be charged subsequently and invoiced together with a processing fee of CHF 100.

4. Delivery deadlines and time of performance

We endeavour to fulfil our customers' wishes regarding delivery dates as far as possible; however, we cannot guarantee the delivery dates or the time of performance; delivery dates are not binding. Withdrawal from the contract, notice of default or claims for damages due to delays in the performance of the contract are therefore excluded for the customer.

The start of the delivery period or the performance of the service requires the clarification by the customer of all technical, organisational and legal details as well as, if applicable, correct and timely self-delivery of preliminary products. In the event of subsequent amendments to the contract which may affect the delivery period or the time of performance, the respective period shall be extended by a reasonable amount, unless special written agreements are made in this respect. Should the customer be in arrears with any payments to us, we shall, in particular, be entitled to execute orders only against prior payment or security.

5. Default of acceptance by the buyer

If upon conclusion of contract, a specific delivery date or time of performance was agreed and if the customer is in default of acceptance, in particular, due to delays in construction, we shall be entitled to pass on to the customer all expenses incurred by us as a result, in particular the storage costs. We shall also be entitled to invoice on the originally agreed delivery date or time of performance.

6. Return of standard items

Products can only be taken back with our prior written consent. Only products and their accessories that cumulatively meet the following conditions will be taken back:

- they are standard items or merchandise
- they are in brand new condition

Products that have been procured, manufactured or refined specifically for the customer are non-returnable.

The amount of the credit will be determined on a case-by-case basis. In particular, a handling fee and any inspection and repair costs will be deducted from the credit note. The return shipment must be suitably packaged and accompanied by a delivery note, carriage paid, and returned to the agreed location. However, there is no obligation to accept the returned items.

7. Delivery obligation/Force majeure

Force majeure shall be deemed to be all circumstances beyond our control which affect the performance of the contract. In the event of such circumstances, the delivery period or the time of performance shall be extended or postponed by the duration of the impediment. However, we shall also be entitled to cancel orders in whole or in part without compensation if force majeure, whether on our part, on the part of our suppliers or en route, makes their fulfilment impossible in whole or in part.

We shall in any case be entitled to fulfil our delivery obligation through partial deliveries.

The benefit and risk of a delivery shall pass to the customer as soon as loading onto trucks or any other means of transport has been completed at our factory or—in the absence of shipping instructions from the customer—as soon as notification of readiness for shipment has been sent to the customer. If assembly, repair or maintenance work is carried out, the benefit and risk shall pass to the buyer after acceptance of the work.

8. Warranty and liability

When our products are used as intended, we only guarantee the technical specifications of our products as they are stated in our production standards.

The customer is obligated to check the goods and services without delay upon receipt. In the event of the performance of assembly, repair or maintenance work, the customer shall inspect the work without delay after delivery. Should goods not correspond to the delivery note or show visible defects, or should services not correspond to the contractually agreed characteristics, the customer must claim this in writing within 8 days of receipt, otherwise the deliveries and services shall be deemed to have been approved. Later complaints will not be accepted.

Joint acceptance tests shall only take place if they have been agreed in writing in advance. If not explicitly regulated otherwise, they shall be at the customer's expense. Goods and services shall be deemed to have been accepted if an agreed acceptance is carried out within 20 days for reasons for which we are not responsible. Goods and services shall be deemed to have been accepted in any case when the customer uses them productively. Transport damage, insofar as it is recognisable, must be recorded on the delivery note prior to acceptance of the goods and immediately reported in writing to the responsible body (forwarding agent, post office, railway, etc.).

After 6 months from receipt of the goods or services, the warranty expires for all defects and under all circumstances, even if such defects are discovered later.

After receipt of the timely notification of defects, we reserve the right to have the notified defect or damage inspected by our own employees or experts of our choice.

Should we acknowledge a defect notified in due time, we undertake solely and exclusively to remedy the defect at our discretion by means of replacement delivery, rectification or credit note, or to compensate for the defect.

Our quality guidelines shall be decisive for material properties, dimensional accuracy and colouring. Colour deviations shall not constitute a defect unless they are so great as to considerably and unreasonably impair the appearance of the final product to be created therefrom.

We reserve the right to make changes with regard to material composition, construction, models and dimensions, provided that the agreed quality does not deteriorate as a result.

9. Disclaimer of warranty and liability

Any warranty or liability in excess of section 8 is expressly excluded to the extent permitted by law. In particular, any warranty or liability is rejected for defects or damage attributable to improper storage, transport or handling, to overloading, unprofessional assembly, unprofessional maintenance or unsuitable use, for design, instruction and/or development errors, for dimensions not confirmed by us, as well as for any information, statements or opinions of our sales personnel in sales discussions, as well as for personal injury, property damage or financial loss attributable to errors or defects or directly or indirectly to the use of our goods or services. Warranty or liability shall be rejected in any case if our products, equipment or parts thereof are modified, contaminated or damaged by subcontractors or other third parties.

With regard to defects covered by warranty, we exclude any claim beyond replacement delivery or rectification, in particular, rescission, reduction or compensation for direct or indirect, immediate or incidental consequential damage.

If the defects subject to warranty are not discovered and notified within the inspection and notification periods agreed in section 8, the delivery shall be deemed to have been approved.

10. Works transactions

These General Terms and Conditions shall apply without restriction to works transactions and custom-made products.

For systems or parts thereof that are delivered according to special proposals, drafts or drawings by the customer, the warranty is limited to the systems or parts thereof having been executed in accordance with these documents. No warranty is given for suitability for the purposes intended by the customer or for other purposes unless special written agreements have been made. We therefore recommend that the customer check drawings, plans and other specifications for accuracy and any samples thoroughly for suitability for use.

Moulds and tools shall remain our property, even if the costs are charged in full or in part to the customer. The confirmation of works transactions and custom-made products is always based on our estimated manufacturing costs. If unforeseen difficulties arise during production that can be solved with reasonable effort, we shall be entitled to invoice the customer for the additional expenditure. If, however, such difficulties cannot be solved with reasonable effort on our part, we shall have the right to withdraw from the contract without compensation and against full payment for the work performed and the expenses incurred to date.

Samples that have to be specially made will be charged—even if no corresponding delivery order is placed.

For systems or parts thereof that we install and commission, we grant a guarantee period of 12 months from the date of commissioning for hidden defects, but no longer than 18 months from the date of delivery if commissioning cannot take place earlier due to construction delays. Guarantee periods exceeding 12 months for works transactions shall only become legally binding if confirmed by us in writing and financially compensated by the buyer upon conclusion of the contract.

11. Maintenance

The content and scope of the maintenance work shall be determined conclusively by our order confirmation. No further services are owed. The customer is obligated to warrant access to the installations to be maintained.

Unless expressly stated otherwise in the order confirmation, a maintenance contract shall have a term of 12 months. The maintenance contract shall be automatically renewed by tacit agreement for a further 12 months respectively unless it is terminated by one of the parties with 3 months' notice to the end of the term.

12. Industrial property rights

Project plans, projects, sketches, drawings, models, trademarks, documentation, expertise etc. remain our property. It is not permitted to use, reproduce, communicate or make them accessible to third parties without our prior, express and written consent.

Should we manufacture objects according to drawings, models or templates that the customer has provided to us, we reject any responsibility for the infringement of industrial property rights and any claims arising therefrom.

13 Retention of title

The delivered goods, installation or parts thereof shall remain our property until full payment of all claims arising from the business relationship with the customer. The customer shall insure against fire and theft at its own expense.

14. Safety and security regulations

Compliance with the applicable safety and protection regulations as well as the corresponding instruction of personnel is exclusively the customer's responsibility.

15. Transfer of rights and obligations to third parties

The customer may not transfer any rights and obligations arising from the legal relationships existing between us to third parties without our prior, express and written consent.

16. Data protection

The parties shall comply with the relevant provisions of the Data Protection Act at all times. Within the scope of the respective contract, Barcol-Air shall be entitled to collect, process, use and disclose the data of the contractual partner's employees, managers and other staff for all purposes connected with the fulfilment of the contract. The consent also includes the use for marketing purposes. In addition, Barcol-Air is expressly authorised to process data about customers in any form and to disclose it to any Group companies or third parties abroad. These recipients may also be located in countries where an equivalent level of data protection may not exist. The contractual partner expressly agrees to the transfer of data to these countries. In these cases, data protection is ensured with the Group companies or third parties through contractual standard data protection clauses in accordance with Art. 46(2)(c) of the EU General Data Protection Regulation.

The contractual partner expressly declares that it consents and that Barcol-Air Group AG as well as its Group companies may demand these declarations of consent from the contractual partner at any time.

In all other respects, personal data is processed within the framework of our Privacy Policy, as amended, which can be accessed at <https://www.barcolair.com/en/data-protection/>. The Privacy Policy forms an integral part of every legal relationship between ourselves and our customers.

17. Amendments to these General Terms and Conditions

We reserve the right to amend these GTC at any time. The customer will be notified of the amendment in writing. It shall be deemed to be accepted if no objection is made within 14 days.

18. Partial nullity

Should one or more provisions of these GTC become void or invalid due to individual agreements, this shall not affect the remaining provisions. These remain unchanged and retain their validity.

19. Place of performance, jurisdiction and applicable law

The place of performance and the place of jurisdiction shall be at the registered office of our company. However, we shall be entitled to sue the customer at its registered office.

The legal relationship shall be governed by Swiss law to the exclusion of the provisions of the UN Sales Convention.

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