

**General Terms and Conditions of Sale and Delivery for Business Partners of  
BERNINA International AG, CH-8266 Steckborn**

**1. General**

These General Terms and Conditions of Sale and Delivery apply in connection to all our sales and transactions with a buyer/customer, provided that the buyer is a company, a business corporation, or a commercially active individual. Any other (general) terms and conditions of the buyer shall generally not apply. As an exception, buyer's general terms and conditions may only become valid if and to the extent that they are expressly acknowledged by us in writing. This also applies if we do not expressly contradict the terms and conditions of the buyer.

**2. Conclusion of Contract / Written Form**

2.1 The sales contract between buyer and BERNINA Int. AG shall become effective upon buyer's receipt of our written order confirmation. This order confirmation may be sent by e-mail as well. The content of the order confirmation shall be decisive for the content of the contract.

2.2 All agreements and legally relevant declarations of the parties with relation to the contract must be in writing in order to be valid. E-mail shall be sufficient.

**3. Scope of Supplies**

3.1 The supplies are specified in our order confirmation.

3.2 If the goods ordered have been modified prior to delivery, we may supply the modified version, however, we shall not have the right to supply goods other than those ordered.

3.3 We may deliver by instalments unless this should be inconsistent with the provisions of the import license or the letter of credit.

**3. Prices**

3.1 Unless otherwise agreed upon, all prices shall be deemed to be FOB or FCA (Incoterms 2020) – as stated in our relevant order confirmation – in freely available currency without any deduction whatsoever. Any additional charges, such as but not limited to freight charges, insurance premiums, fees for export, transit, import and other permits, as well as for certifications, shall be borne by the buyer. Likewise, the buyer shall bear any and all taxes, fees, levies, customs duties and the like which are levied out of or in connection with the contract.

3.2 We have the right to change prices provided, however, delivery of the ordered product takes place later than 60 days from the date of order confirmation. Orders

containing a price confirmed without restriction by BERNINA Int. AG, prior to the price increase, will be executed at the confirmed price.

#### **4. Terms of Payment**

4.1 Unless otherwise agreed upon, buyer shall pay our invoice(s) by irrevocable letter of credit confirmed by a reputed Swiss Bank, all relative bank charges being for account of the buyer.

4.2 If the buyer is or should become in delay with his payment, he shall be liable, without reminder, for interest with effect from the date on which the payment was due at a rate of 2% p.a. above the interest rate the seller is, or would be, charged for by its bank for overdrafts in the respective currency. Additionally, in such a case, we have the right to stop future deliveries immediately.

Additionally, we may adapt our prices in case of changes of the exchange rate to the Swiss Francs of more than  $\pm 5\%$  from the date of delivery compared to the exchange rate valid at the time of our order confirmation. We shall remain the owner of all supplies and deliveries until having received full payment of all supplies and deliveries in accordance with the contract.

#### **5. Delivery Time**

5.1 The delivery time shall start as soon as the contract is entered into, all official formalities such as but not limited to import, export, transit and payment permits having been completed, agreed securities given, letters of credit opened and agreed advance payments rendered, unless we have stated a specific delivery time or date in the order confirmation.

5.2 The delivery time is reasonably extended if hindrances occur which we cannot prevent despite using the required care, regardless whether they affect us, the buyer or a third party. Such hindrances include any event of "force majeure" such as but not limited to epidemics, pandemics, mobilization, war, revolution, serious breakdown in the works, accidents, labor conflicts, late or deficient delivery by subcontractors of raw material, semi-finished or finished products, official actions or omissions by any state authorities or public bodies, natural catastrophes, acts of God.

#### **6. Passing of Benefits and Risk**

6.1 The passing of benefit and risk shall be governed by the International Commercial Terms as established by the International Chamber of Commerce (INCOTERMS), issue 2020 as specified in our order confirmation, as stated in our relevant order confirmation.

6.2 If dispatch of the supplies is delayed at the request of the buyer or due to reasons beyond our control, the risk of the supplies shall pass to the buyer at the time originally

foreseen for their leaving BERNINA's factory. From this moment on, the supplies shall be stored and insured on the account and the risk of the buyer.

## **7. Inspection of Goods and Taking-over**

The buyer shall inspect the supplies within a reasonable period (maximum 10 days after receipt) and shall immediately inform us in writing of any deficiencies. If the buyer fails in doing so, the supplies shall be deemed to have no defects and been taken over as received.

## **8. Warranty and Liability**

8.1 BERNINA Int. AG warrants to the buyer that its products are free from defects in material and workmanship under normal use and services. In case the products are defective, the buyer may request for compensation delivery or elimination of defects during the warranty period as stipulated in BERNINA Int. AG's Warranty Terms as published under <https://iPortal.bernina.com>.

8.2 Upon written request of the buyer, we have the right – at our choice – to repair or replace as quickly as possible any parts of the supplies which, before the expiry of the guarantee period, are proved to be defective due to bad material, faulty design, or poor workmanship. Replaced parts shall become our property.

8.3 If a defect according to Article 8.2 is not eliminated or compensated by us within a reasonable period of time, the buyer may ask for price reduction or for return of the defective product.

8.4 The above is the only warranty of any kind, either express or implied, including but not limited to the implied warranties of merchantability and fitness for a particular purpose, that we make on our products. No oral or written information or advice given by us create a warranty or in any way increase the scope of this warranty and the buyer may not rely on any such information or advice. The buyer may have additionally other rights which may vary from country to country.

8.5 Neither BERNINA Int. AG nor anyone else who has been involved in the creation, production or delivery of the products shall be liable for any direct, indirect, consequential or incidental damages (including damages for loss of business profits, business interruption, loss of business information and the like) arising out of the use of or inability to use such products, subject to the compelling product liability law, except if we have acted with malice intent.

8.6 All cases of violation of contract as well as the legal consequences and all of buyer's claims, no matter on which grounds they might be based, are regulated terminally in these General Terms and Conditions. All claims for damages, price reduction, termination of contract or withdrawal from the contract which are not explicitly mentioned

in these General Terms and Conditions are excluded. Any liability for consequential damages is excluded except for compulsory provisions, especially for product liability.

## **9. Sanctions and Export Control Regulations**

BERNINA Int. AG respects all export control regulations (including all international sanctions) when selling its products to the buyer. When reselling BERNINA's products, BERNINA's distribution partner (buyer) shall be responsible for full compliance with all relevant export control regulations, including international sanctions (e.g. U.N. and U.S.A.), valid and in force in buyer's country and potential export countries. Buyer acknowledges that all deliveries of BERNINA Int. AG are subject to Swiss and/or foreign legal provisions on export control (including international sanctions). Buyer is obliged to keep to such rules and regulations. Buyer acknowledges that the relevant export control regulations may change from time to time and that buyer will adopt the changes accordingly.

## **10. Place of Jurisdiction and Governing Law**

**10.1 The place of jurisdiction shall be at the registered office of BERNINA International AG. Nonetheless, we shall, however, be entitled in addition to take legal actions against the buyer at the latter's registered address.**

**10.2 The contract shall be governed by Swiss substantive Law (Schweizerisches Obligationrecht, OR) excluding the application of the UN-Convention on the International Sale of Goods of 1980 (CISG).**

10.3 Should any provision of these General Terms and Conditions of Sale and Delivery be or become invalid or void, this shall not affect the validity of the remaining provisions. The invalid/void provision shall be replaced by a provision that comes closest to the purpose intended by the invalid/void provision. This also applies to the filling of any gaps of these General Terms and Conditions.