

## 1. SCOPE

1.1 These terms and conditions apply to all deliveries of goods and other services supplied by BATEGU Gummitechnologie GmbH ("BATEGU") and become an integral part of the contract through the acceptance of the order of the client ("Client") within the meaning of Cl. 2.3.

1.2. By concluding the contract, the Client also agrees with these terms and conditions for the future. 1.3. A failure on the part of BATEGU to exercise its rights in accordance with these terms and conditions does not imply a waiver for the future.

1.4. A reference to order documents of the Client does not imply a recognition of his general terms and conditions on the part of BATEGU. The same applies if BATEGU renders deliveries whilst being aware of opposing terms and conditions of the Client and/or accepts payments without contradiction. The recognition of general terms and conditions of the Client requires an explicit written declaration by BATEGU irrespective of a textual contradiction.

1.5. Should the information in the order of the Client deviate from these terms and conditions, its validity shall then require corresponding explicit written approval supplied by BATEGU.

## 2. OFFER, BASIS OF AGREEMENT

2.1. Offers supplied by BATEGU are non-binding. Offers are subject to prior sale.

2.2. Images, drawings, calculations, samples and other information of physical or incorporeal form as well as other documents ("Information") attached to a BATEGU offer are non-binding and subject to change.

2.3 The agreement comes into effect with the forwarding of the written BATEGU order confirmation with these contractual conditions enclosed. The Client must point out any deviations from the order within 7 working days, otherwise he approves the contractual declaration of BATEGU. The order confirmation is solely decisive for the scope and execution of the order.

2.4. Regarding patent, prototype and trademark protection, the acceptance and execution of the orders as well as the delivery takes place at the risk of the Client. The Client is responsible for not infringing the rights of third parties through the use of supplied information (in accordance with Cl. 2.2), and indemnifies BATEGU and holds it harmless.

2.5. BATEGU assumes no responsibility for loss or damage of information supplied by the Client. BATEGU is entitled to necessary duplication without forwarding to third parties. Insurance cover is recommended, which is incumbent upon the Client. BATEGU is entitled to destroy customer models or other information which have not been used for seven years.

2.6. Before conclusion of the agreement, the Client must make BATEGU aware of the statutory, regulatory and other prescriptions which may cause delay or hinder the delivery. The Client shall ensure the timely acquisition of all required regulatory permits.

## 3. RIGHT OF WITHDRAWAL

3.1. With regards to series production the Client has the right to withdraw from the agreement, if he replaces the expenses actually incurred by BATEGU up to that point. Proof of the expense is not applicable up to an amount of 50% of the order value, which is due to BATEGU as a minimum lump sum compensation. 3.2. This right of withdrawal does not apply to custom-made items or customer-specific components.

3.3. BATEGU reserves the right to withdraw wholly or

partially from the agreement after prior notification.

3.4. With regards to call orders BATEGU is entitled to acquire the material for the whole order and to immediately manufacture the whole order quantity. Change requests made by the customer may therefore no longer be taken into consideration after the order is placed, unless an alternative, explicit agreement has been reached.

## 4. QUANTITY DEVIATION

4.1. BATEGU reserves the right, particularly for those cases in which accurate manufacturing, on a weight or unit basis, is not possible from the outset in accordance with the production process, to over- or under-deliver the quantities ordered or weight ordered by up to 10%.

4.2. For custom-made items as well as orders for less than 100 items, BATEGU reserves the right to deviate in quantity by up to 50%.

4.3. Accounting takes place according to the actual delivery.

## 5. PRICES/PAYMENT TERMS/DEFAULT

5.1. Prices of BATEGU are in euros for deliveries made ex works excluding the respective statutory VAT, packaging, freight, postage, value insurance and other expenses.

5.2. The costs of packaging, transportation insurance, freight and assembly are calculated separately. The Client also bears the taxes, agreement fees, stamp, export, import and transfer fees, discount interest, customs duties and customs expenses, authoritative commission fees and similar.

5.3. Prices, which have been agreed in foreign currency, are based on the parity applicable at the time of conclusion of the agreement. In the event of a change in this parity before the receipt of the respective payment, BATEGU is entitled to alter the prices accordingly.

5.4. Invoices are issued with the prices indicated in the order confirmation and are determined according to the prices applicable on the day of delivery and the weight or number of items determined by BATEGU. Should the cost elements (material, wages, taxes, duties, social security etc.) change during the duration of delivery agreements, BATEGU reserves the right to increase the price accordingly. This right of price adjustment also exists during delayed delivery, if BATEGU is not responsible for the reason for the delay. The Client is not entitled to a right of withdrawal on the basis of this type of price adjustment (subject to his right according to Cl. 3). 5.5. Should no specific agreements have been reached regarding the terms of payment, the following shall apply as a payment term: 14 days net. The fulfilment of the payment obligation assumes that BATEGU has received the amount specified in the invoice without loss and it is freely available.

5.6. Bills of exchange or cheques are only accepted on the basis of a particular agreement. In this case the payment is only deemed to have been made once it is cleared. Discount charges, exchange taxes and other expenses are borne by the Client. The bills of exchange must be made payable at a national banking centre.

5.7. The Client shall bear default interest to the amount of 1% per month for delayed or deferred payment. BATEGU reserves the right to the assertion of more extensive damage claims. The Client is in any case obliged to compensate the costs caused by him, particularly costs of legal interventions or other en-

forcement measures.

5.8. Payments are charged - subject to a deviating disclosure by BATEGU - initially on default interest and other default damages and only then on capital.

5.9. The minimum invoice value amounts to EUR 400

5.10 If the Client is in default of payment, or if his bills of exchange or cheques are protested, or if it is recognised after conclusion of the delivery agreement that his financial circumstances are unfavourable or deteriorate, BATEGU is entitled, subject to its other rights, to withdraw from the agreement without setting a period of grace and to demand damage incurred due to non-fulfilment. Under these conditions BATEGU also has the right to render further deliveries only against prepayment and fulfilment or provision of security for all claims due. In the case of a successive delivery agreement, BATEGU has these rights with regard to the whole agreement.

5.11. In the case of withdrawal, the rendered services must be deferred. The Client must return the received deliveries and compensate the depreciation incurred in the meantime as well as the expenses of BATEGU, particularly transportation costs, customs duties, fees, travelling expenses, construction and administration expenses etc. Included in the expenses are also those expenditures that BATEGU had to effect or still has to effect for the purchase of components of the delivery to third parties (subcontractors). The Client regains without interest, any payments already made by him in consideration of the above deductions and interest-free. In the case of custom-made items, BATEGU is entitled to provide the manufactured parts to the Client and demand the corresponding proportion of the sales price for this.

5.12. Should the Client come into a default of an instalment for a deferred payment, the whole outstanding debt (payment target shall be deemed to have been missed) becomes payable.

5.13. For distance transactions BATEGU reserves the right to demand security for the fulfilment of payment obligations in the case of subjective concern prior to shipment without interest, any payments already made by him in consideration of the above deductions and interest-free. In the case of custom-made items, BATEGU is entitled to provide the manufactured parts to the Client and demand the corresponding proportion of the sales price for this.

5.12. Should the Client come into a default of an instalment for a deferred payment, the whole outstanding debt (payment target shall be deemed to have been missed) becomes payable.

5.13. For distance transactions BATEGU reserves the right to demand security for the fulfilment of payment obligations in the case of subjective concern prior to shipment.

## 6. INVOICING, RIGHT OF RETENTION AND OFFSET

6.1. BATEGU forwards an invoice corresponding to the statutory requirements.

6.2. The Client may only withhold payments for the securing of claims or set off against BATEGU with such claims he is entitled to, if this is recognised by BATEGU or legally determined.

## 7. DELIVERY

7.1. BATEGU complies with the statements of delivery time without reference to possibility. In the event of the delivery time being exceeded, BATEGU shall inform the Client within the framework of the possibilities. The Client shall not have a claim for damage

compensation or a right to cancellation of the agreement on account of the delivery time being exceeded. Early deliveries are permitted to BATEGU if this is previously indicated to the Client.

7.2. The delivery time is extended - without prejudice to the rights arising from default of the Client - by the period for which the Client is in default with the fulfilment of his obligations.

7.3. Ordered goods shall be immediately accepted upon completion by the Client, unless otherwise agreed. For the order of larger quantities, the amount of the individual delivery shall be determined by BATEGU. The Client is not entitled to send back partial deliveries. Goods bought on demand must be accepted within four months, unless otherwise agreed.

7.4. Should the acceptance not take place within good time, BATEGU has the right to store the goods at the cost and risk of the Client and invoice for them as delivered goods. BATEGU also has the right to withdraw from the agreement and receive compensation from the Client for the damages sustained. Subject to evidence of a higher amount of damage due to non-fulfilment, the Client shall be liable for 10% of the value of the goods not accepted, irrespective of fault, as a flat compensation amount (including for expenses).

7.5. A takeover of goods intended on the basis of particular quality regulations requires an explicit written special agreement upon the completion of the transaction, and the takeover must be effected at the latest within 14 days of receipt of the notification of the willingness to takeover the goods in the BATEGU plant. Upon expiry of this period the right to such takeover of goods may no longer be asserted.

7.6. As long as the Client is in default of payment, BATEGU is not obliged to deliver.

7.7. In the event of force majeure, strikes, operational disruptions, shortage of material as well as all other circumstances which significantly restrict or prevent BATEGU (or its subcontractors) executing orders accepted, BATEGU is entitled, excluding any claims of the Client for damage compensation or cancellation of the agreement, depending on the situation, to reduce the scope of delivery, to postpone the delivery date or withdraw from the agreement.

7.8. Should BATEGU come into default with the due delivery, the Client then has the right of fulfilment. Should BATEGU be demonstrably at fault, the Client then also has the right to withdraw from the agreement with a written declaration setting an appropriate period of grace. The suitability of the period of grace is particularly determined in accordance with the scope of delivery, and also whether or not a custom-made item is due. Should a partial delivery have been put into use by the Client and can still be used by the Client, withdrawal regarding this partial delivery is excluded as a possibility. BATEGU is liable to pay damages in accordance with Cl. 11.

## 8. PACKAGING AND SHIPPING

8.1. Any packaging is charged at cost price and only taken back after an agreement reached in an individual case (only emptied of residues in any case). Compliance with environmental regulations (especially on the basis of the Packaging Ordinance) is incumbent upon the Client, who indemnifies and holds harmless BATEGU.

8.2. The shipping takes place ex supplier works at the cost and risk of the Client. The Client also bears the risk if, exceptionally, freight-free delivery has been agreed. Should shipping be delayed, the risk is transferred to the Client on the day of readiness for dispatch.

8.3. The transport arrangements are carried out by

the Client at his own cost and risk. Should the freight carrier be commissioned by BATEGU (by agreement with the Client), the Client shall be required to continue to ensure that the goods are properly secured on the transit from door to door against shifting or dropping, tipping over, any external mechanical damage and similar. In the absence of specific dispatch regulations of the Client, BATEGU may choose the means of transport. No guarantee is given for the choice of the cheapest method of shipment.

8.4. Complaints regarding transportation are to be immediately directed to the last freight carrier and documented by the Client upon receipt of the delivery or the shipping documents. The Client is required to immediately assert any transportation damages to the freight carrier and to communicate this to BATEGU at the same time.

8.5. The Client is required to conclude transport insurance from door to door corresponding to the value of the delivered goods at his own cost. If it is agreed that this insurance should be arranged by BATEGU, this shall be at the cost and risk of the Client.

8.6. All returns, including those carried out on the basis of complaints, are at the expense and risk of the Client.

8.7. BATEGU is not responsible for transportation damages under any circumstances.

## 9. RESERVATION OF TITLE

9.1. The delivered goods ("Reserved Goods") shall remain the property of BATEGU, until the Client has paid all debts from the business relationship in full, particularly up to full payment of the purchase price including all ancillary costs, if applicable up to payment of cheques, client or promissory bills of exchange, and in the case of a running account up to the complete balancing of the account. This also applies if the Client makes payment for certain deliveries designated by him.

9.2. The Client is required to look after and store the delivered goods properly. He is responsible for damage of all forms as well as for loss, irrespective of their causes.

9.3. The Client is prohibited from pledging the reserved goods or using them as security. A resale is only permitted to resellers during ordinary business and only on the condition that the reseller receives payment from its client or makes the transfer of property to the client dependent upon the client fulfilling his/her obligation to effect payment. In the event of processing or combining the Reserved Goods the title retention of BATEGU extends to the product within the scope of statutory possibilities.

9.4. In the event of pledges, seizures or other interventions of third parties, the Client is required to communicate this immediately. 9.5. Should particular statutory provisions apply for deliveries abroad for the protection of the reservation of title, the Client is required to take all measures to make our retention of title effective in legal form (e.g. affixing of markings, entry into public registers or similar). If the law covering the delivery item does not permit the retention of title, but grants other rights over the items delivered, BATEGU is entitled to exercise these rights. Should the Client breach this obligation, BATEGU is entitled to withhold the components not yet delivered until evidence of the fulfilment of this condition is provided, or to withdraw from the agreement without a period of grace with the legal consequences of Cl. 5 of these conditions.

9.6. In the event of breaches of obligation on the part of the Client, particularly in the event of delay of payment or breach of other obligations, BATEGU is also entitled to withdrawal irrespective of its other

rights and the Client is required to surrender the Reserved Goods. The withdrawal or assertion of retention of title shall not constitute withdrawal from the agreement, unless explicitly declared by BATEGU.

9.7. All tools produced and acquired by BATEGU shall remain the property of BATEGU in every case, even if their supply or acquisition costs were wholly or partially taken on by the Client. The Client acquires no right to the items themselves through the remuneration of cost shares for tools (share in the tool costs). These shall remain the property of BATEGU in every case, irrespective of any claims relating to copyright of design and patents of the Client. For designs and other information as laid down in Cl. 2, BATEGU claims statutory protection. Plans, sketches and other documents as well as samples, catalogues, brochures, pictures and similar remain the intellectual property of BATEGU at all times and are protected by relevant statutory provisions regarding duplication, forgery, competition etc. The confidentiality agreement of Cl. 12 applies.

## 10. WARRANTY

10.1. BATEGU is responsible for the flawlessness of its services in accordance with the following provisions. Further warranty rights are excluded as a possibility.

10.2. The warranty obligation of BATEGU includes material or manufacture defects which exclude the usability of the items ("Defect") and are present at the time of delivery, and for shipment at the time of the transfer of risk in accordance with Cl. 8.2. The warranty obligation is that the defective components or services are exchanged at the discretion of BATEGU for non-defective items from the supplier or the repayment of the paid purchase price. Further reimbursement for dismantling and assembly, freight costs or other drawbacks is excluded as a possibility.

10.3. For defects on parts of the goods, which were obtained from subcontractors, particularly raw materials, the liability of BATEGU shall be limited to warranty claims entitled to him against the subcontractor.

10.4. BATEGU advises its customers, e.g. with printed media, technical or commercial information, bibliographical references, disclosures on the existence or absence of property rights, also with the execution of measurements, laboratory tests or technical processing tests, also particularly in the use of client facilities, to the best of its knowledge and ability, excluding any obligation.

10.5. The exchange (as laid down in Cl. 10.2) is carried out free of charge for the Client from the supplier. The Client sends the defective goods at his own risk and costs and the advance agreement of BATEGU is required. Cl. 8. applies correspondingly. The agreed retention of title also extends to the goods delivered as replacements. 10.6. The burden of proof for the defectiveness at the relevant time according to Cl. 10.2 lies with the Client. He must immediately check the delivered goods upon receipt for completeness and quality and report defects in writing within 8 days. Should the Client fail to report these defects, the goods are then deemed to be approved, unless the defect was not detectable upon examination. Hidden defects must be immediately notified after their discovery. 10.7. The warranty obligation conclusively described in this Cl. 10 particularly does not extend itself to defects resulting from normal wear and tear, deficient maintenance, disregard of company regulations or instructions, excessive stress, use of unsuitable equipment and unsuitable raw materials, or of raw materials and equipment that cause increased wear and tear due to their character, or chemical or electrolytic influences, as well as due to

other circumstances which were not caused by BATEGU. Insignificant defects are also excluded from the warranty: insignificant defects are those which have no direct and noticeable effect on the function of the parts of the equipment or on the quality of the product to be produced, such as in particular visual defects or similar. 10.8. The warranty will expire if the goods have not been stored properly (DIN 7716), if the Client or third parties carry out changes or repairs to the delivery without the written agreement of BATEGU; furthermore, if the Client does not immediately undertake suitable measures to limit the extension of the damage; and finally if the defect cannot be remedied with reasonable technical means.

10.9. Should an order be made on the basis of design specifications, drawings and models supplied by the Client, the warranty does not extend to the accuracy of design, but rather only to the fact that execution is performed in accordance with the specifications of the Client. Investigation and warning obligations do not apply to BATEGU. The Client indemnifies BATEGU and holds it harmless in the event of any infringement of third-party property rights.

10.10. The warranty period amounts to six months and begins independent of the recognisability of the defect upon delivery (or the transfer of risk as laid down in Cl. 8.2.). A removal of defects, or an acknowledgement, do result in the warranty period being extended neither for the main delivery nor for the replaced or new parts, including in the event of the insertion of new parts into the main delivery.

#### 11. COMPENSATION AND PRODUCT LIABILITY

11.1. Claims of compensation on the part of the Client are excluded as a possibility, insofar as BATEGU is only slightly at fault. In the case of gross negligence, BATEGU's obligation to pay compensation is limited to the Client's direct damage that is typical for the contract. The compensation of an actual loss of profit is only due for intentional damages. Other subsequent damages, such as in particular third-party damages, are not liable for compensation in any case.

11.2. Suppliers of BATEGU are not deemed to be its agents. The burden of proof for the fault substantiating the liability for damages is borne by the Client.

11.3. BATEGU is responsible for product defects within the scope of the Product Liability Act ("PLA"). Liability to recourse on the part of BATEGU according to Section 12 PLA assumes that it has culpably caused the error by gross negligence.

11.4. Claims for damages on the part of the Client expire by limitation within six months from the identification of the damage; independently of this, however, two years after delivery in any case.

#### 12. CONFIDENTIALITY

12.1. The Client is required to keep confidential all business information and/or expertise of BATEGU, of which he is made or becomes aware. The Client is in particular required to keep confidential all received pictures, drawings, calculations, other documents and information as laid down in Cl. 2.2. These should only be disclosed to third parties with explicit prior written approval supplied by BATEGU, and these third parties should be bound to an identical confidentiality agreement (Clause 12.).

12.2. Publicly known information is excluded from this confidentiality agreement.

12.3. This confidentiality obligation shall apply even after the end of the delivery relationship.

12.4. The Client is liable for all damages arising through the non-observance of provisions specified in Cl. 12.

#### 13. INVALIDITY, TRANSMISSION OF RIGHTS, INSOLVENCY, HEADINGS, PENALTY

13.1. If individual provisions of these GT&C are or become wholly or partially invalid or impracticable, the remaining provisions shall remain valid. Any invalid contractual provision shall be replaced by one that comes closest to its commercial content and that would have been agreed by the contracting parties if they had detected the invalidity or impracticability upon conclusion of the agreement. This also applies accordingly for loopholes.

13.2. The Client may neither wholly nor partially assign or transfer rights from the agreement concluded with BATEGU to third parties without prior written approval from BATEGU.

13.3. The initiation of insolvency proceedings relating to the assets of the Client entitles BATEGU to withdraw from the agreement.

13.4. Headings in these GT&C, the individual agreement and any attachments are provided solely for clarity and are not to be used for interpretation.

13.5. The language of the agreement is German.

#### 14. PLACE OF PERFORMANCE PLACE OF JURISDICTION, APPLICABLE LAW

14.1. The place of performance is the headquarters of BATEGU in Vienna, including if transfer to a different place is agreed.

14.2. The exclusive place of jurisdiction for any disputes arising from the agreement is the Commercial Court of Vienna. However, BATEGU is entitled to file suit at another place of jurisdiction available to it according to general standards.

14.3. Austrian law applies to the exclusion of the UN Convention on Contracts for the International Sale of Goods as well as all conflicts of laws, which refer to the application of foreign law.