

GENERAL TERMS AND CONDITIONS OF TRADE

of BS Systems GmbH & Co. KG for use amongst businesses

1. Validity

- 1.1. These purchase conditions (GTCs) are valid for all offers and contracts vis-à-vis companies in accordance with § 14 BGB (German Civil code), a legal entity under German public law or a special fund under German public law in accordance with § 310 par. 1 sentence 1 BGB (German Civil code) on the part of BS Systems GmbH & Co. KG, including all ancillary services, counselling and information which we emit or conclude as sellers/contractors.
- 1.2. These GTCs are exclusively valid. With the order confirmation of the purchaser / contracting entity (customer) these GTCs are taken as recognised and become an integral part of the contract. Contradictory or diverging conditions of the customer are not applicable, even if we do not specifically object to their applicability in individual cases.
- 1.3. These GTCs also apply if, notwithstanding our knowledge of terms and conditions of the customer which oppose or deviate from these GTCs, we carry out the delivery to the customer without reservation or perform services for the customer.
- 1.4. Individual agreements concluded in specific cases with the customer shall in all cases have precedence over these GTCs. The content of such agreements must be set forth regularly in a written contract or a written confirmation from us.
- 1.5. These GTCs also apply regularly for all future contracts with the customer, in which we are contract partners on the seller/contractor side.
- 1.6. Our sales representatives / employees and commercial agents are not authorised to reach agreements or make commitments which diverge from our GTCs. For this purpose, a legally effective individual agreement must be reached with employees holding powers of representation.

2. Offers, offer documents, information and consultation

- 2.1. Our offers are subject to alterations and non-binding, as long as they are not expressly marked as binding.
- 2.2. We are only bound to binding offers, if the contract has been concluded by the deadline specified in the offer, but at the latest two weeks after the offer has reached the customer.
We reserve the right to accept or reject the acceptance of the contract offer of the customer made by means of commissioning/ordering without stating any reasons. In the latter case, a contract is not concluded with us. The offer of the customer is accepted from our side if we confirm the order in written form within the time limit prescribed or if a corresponding delivery is executed.
- 2.3. The agreement is concluded under the condition that services will not be carried out or only carried out in part if an incorrect or improper delivery is received from suppliers. This only applies if we are not accountable for the failed delivery and we have with due diligence effected a concrete hedging transaction with our supplier. We will make every reasonable effort to obtain the goods. Failing this, we will immediately reimburse the consideration. In case of such non-availability or mere partial availability of goods, the customer is informed immediately.
- 2.4. Samples and specimens are noncommittal. Designs are subject to change within reasonable bounds, i.e. as long as this is compatible with customer specifications or the change is negligible and the use of the delivered goods or services for the contractually intended purpose is not compromised as a result. Customary deviations or deviations which occur on account of legal provisions or constitute a technological improvement, as well as the replacement of components with equivalent parts, as long as it does not compromise the use of the goods or services for the contractually intended purpose.
- 2.5. All details concerning the suitability, application options and the subject matter of our goods/services are given to the best of our knowledge and are only approximately authoritative, unless the use of the delivery or service for the contractually intended purpose requires exact correspondence. The provided details are only experience values and do not constitute guaranteed characteristics.
The customer is insofar not exempted from the requirement to make sure himself that the goods/services meet the requirements of the contractually intended purpose and the contractually agreed quality.
- 2.6. The customer agrees to our further use and reproduction of drawings, plans, models, templates, samples, tools, production aids, measurements, weights and similar performance data, which the customer has supplied us with, by us and – insofar as this is necessary for the order – also to us passing them over to third parties. If the values given to us by the customer change, the latter must inform us immediately in written form.

3. Prices

- 3.1. The valid BS Systems list price / catalogue price of the moment in time when the contract is concluded is authoritative for our prices.
- 3.2. If a delivery at list price / catalogue price is performed more than four months after the conclusion of the contract for reasons we are not accountable for and the list price / catalogue price has increased or decreased, the new list price / catalogue price shall be deemed as agreed. If the deviation amounts to more than 5% of the agreed net price, both parties have the right to withdraw from the relevant part of the agreement.
- 3.3. If work is performed more than four months after the conclusion of the contract for reasons we are not accountable for and our labour costs / material costs have increased or decreased by more than 5%, the agreed price is adjusted accordingly; in doing so, a wage and material share of 45% each and a fixed price share of 10% shall be used as a basis. If an increase or decrease of more than 15% occurs, both contracting parties have the right to withdraw from the relevant part of the agreement.
- 3.4. In the absence of a special agreement, our prices apply ex works/warehouse and without packaging. The customer bears the cost of packaging, loading, transport, export or import duties, fees, taxes and other public charges as well as insurances.
- 3.5. The statutory sales tax is not included in the price. It is payable at the statutory rate and will be entered separately on the invoice.

4. Delivery, packaging and transfer of risk

- 4.1. The delivery will be carried out ex works/warehouse, which is the place of performance. If we are also responsible for the installation, the place of performance is the place where the installation is supposed to be carried out. At the request of the customer, the goods will be sent to a different location (sales shipment), the mode of dispatch and packaging are subject to our reasonable discretion.
- 4.2. The delivery is carried out at the risk of the customer, even if we exceptionally bear the transport charges. We are not obliged to take out transport insurance. The risk is transferred to the customer with the delivery of the goods/services to the transport company and at the latest when leaving our works or warehouse, in case of drop shipments the works or warehouse of our supplier, even for carriage paid, FOB or CIF transactions.
- 4.3. We will only accept the return of supplied packaging within the limits of our statutory obligations. The return does not cover the return delivery and the associated costs. The disposal of the packaging will be charged to the customer at our original cost. If no return of the packaging to us takes place, a contribution to or assumption of the disposal costs by us is not owed.
- 4.4. Upon receipt of the goods/services, the customer is obliged to fulfil his statutory inspection and reprimand duties in accordance with §§ 377, 381 of the German Commercial Code (HGB). If a defect is discovered during the examination or later, we must be notified immediately in writing. The notification is deemed to be immediate, if it takes place within seven working days, whereby the timely dispatch of the notification suffices to meet the deadline. Regardless of this inspection and reprimand duty, the customer must notify us of obvious defects within seven work days after delivery in written form, whereby the timely dispatch of the notification also suffices here to meet the deadline. If the customer misses the deadline for duly inspection and/or defect notification, liability for the defect, which we were not notified of, is excluded.
- 4.5. In addition, § 438 of the German Commercial Code (HGB) applies.
- 4.6. The obligations of section 4.4 also apply for the customer if the delivery/service is delivered to a third party or rendered on the premises of a third party at the customer's request.

5. Dates, delivery/service

Our delivery and service dates are non-binding, unless otherwise agreed. Delivery deadlines start upon conclusion of the contract. Delivery dates and deadlines are deemed as to have been met upon notification of readiness for delivery. If the customer fails to make due down payments upon request or does not provide the information required for the execution of the order, the delivery dates and deadlines will be extended by the respective period.

- 5.1. Force majeure (unforeseen circumstances and events beyond our control, which could not have been avoided with the due diligence of a prudent business person such as labour disputes, war, fire, transport obstructions, raw material shortages, official measures) or breakdowns, on our part as well as on the part of our suppliers which temporarily prevent us from delivering the goods/services by the due date without fault of our own, extend the delivery dates and

deadlines by the duration of the obstruction. If such obstructions should lead to a delay of more than four months, the customer can withdraw from the contract.

- 5.2. In case of non-compliance with the delivery dates specified by us as binding, the customer is entitled to set us an adequate period of grace of – regularly – at least two weeks. If the delivery is not performed by the end of the period of grace, the customer has the right to withdraw from the contract. The delivery is deemed to have been carried out on time, if the goods/services have left our works or warehouse or the works/warehouse of our supplier/subcontractor before expiry of the deadline. We will only compensate delay damages subject to the rulings of section 9.
- 5.3. Subject to reasonable consideration of the interests of the customer, we are entitled to make part performances, if the partial delivery can be used within the scope of the contractually intended purpose, the remaining delivery is assured and no significant extra or additional costs are incurred for the customer. If the delivery is carried out in partial performances, the customer will not have to pay any shipping costs besides the flat shipping charge as a result.
- 5.4. If the customer fails to pick up the goods within one week after the receipt of our notice of readiness for collection / invoice or if he refuses the acceptance of our goods/services, he shall be deemed in default of acceptance. If the customer is in default of acceptance, we are entitled to grant him a period of grace for picking up or accepting the goods/service. Unless the particular circumstances of a case dictate otherwise, a period of grace of one week is deemed adequate. Upon fruitless expiration of the period of grace we are – irrespective of further claims – entitled to withdraw from the contract and/or claim compensation. In the latter case, we are entitled to charge 10% of the agreed net purchase price as liquidated damage without being required to indicate specific damage, unless the customer can prove that we have suffered no damage or that the damage suffered had a lower value. We are always entitled to demand compensation for the damages actually suffered instead of the liquidated damages payment plus possible additional costs (e.g. storage costs). In case of a default in acceptance, the risk of accidental loss or accidental deterioration of the goods is transferred to the customer.

6. Payments

- 6.1. All of our payments are payable immediately on receipt of the invoice. Payments shall be considered to have been made on time once the amount has been received by us and is at our unrestricted disposal.
- 6.2. We are entitled to demand reasonable advance payments.
- 6.3. If the customer is in default on payment or we have justified doubts about his solvency, we are entitled to make all claims resulting from the relevant contractual relationship (including other individual orders which fall under the same framework contract) payable immediately and/or to require security even before delivery/performance, to withhold outstanding deliveries/services from the relevant contractual relationship with the customer fully or in part or to withdraw from the relevant existing contractual relationship fully or in part.
- 6.4. The customer shall only hold rights of offsetting, retention or refusal to pay if his counterclaims are legally binding, undisputed and or acknowledged. Furthermore, the customer is entitled to exercise his right of retention insofar as far as his counterclaim is based on the same contractual relationship. In case of defective delivery, the counterclaim rights of the customer, especially those under 8.7 remain unaffected.
- 6.5. We reserve the right to use payments to settle the oldest due claim plus the accrued interest on default and costs on this amount in the following order: costs, interest, claim.

7. Retention of title, retention of copyright, secrecy

- 7.1. We retain the title to all our goods/services (reserved items) until all claims resulting from the business relationship with the customer have been settled. This also applies for items which we install or hand over within the scope of a service or work. The retention of title shall continue to apply towards the customer, even if we have incorporated the claims into a current invoice (current account) and the balance has been drawn and recognised (current account reservation). The transfer of risk according to section 4 remains unaffected by this.
- 7.2. The customer must handle the reserved items with due care. He is obliged to insure our reserved items at his own expense against fire, water and theft damages sufficiently at the gross invoice value and already assigns his compensation claims to insurance income amounting to the gross invoice value, to us. The assignment is hereby accepted.
- 7.3. The customer is only entitled to resell the delivered goods in the regular course of business, provided that he fulfils his contractual duties toward us and that the resale results in a remuneration claim of at least the purchase costs. In case of a resale of the reserved items by the customer, the latter, in turn, must deliver the goods to his customers as an effectively agreed subject of the retention of title (forwarded retention of title) until full payment has been made,

whereby the current account reservation agreed in section 7.1 does not apply for the forwarded retention. The customer assigns to us in advance all his claims against his customers or third parties resulting from the resale of our reserved items, including possible future claims, to the amount of the gross invoice value of our delivery or our co-ownership share. We hereby accept the assignment.

In case our goods have been processed, connected, mixed and/or blended with third-party goods, the assignment of claim only applies in proportion of the gross invoice value of our reserved goods to the value of the third-party goods sold with it. The customer shall remain authorised to collect the claims or even the assignment. Our entitlement to collect the claims ourselves remains unaffected by this. We are, however, obliged not to collect the claims as long as the customer satisfies his payment and other duties towards us in due form. If the customer should, however, be in default on a payment, we are entitled to notify the customer's buyers of the assignment of claims or the retention of title and to collect the claims ourselves.

The customer must forward the proceeds from the resale of our reserved items to us immediately in each case, if our claims are due or become payable. If the customer suspends payment, files for insolvency concerning the customer's assets or if he fails to meet his obligations toward us, the entitlement to resell the reserved items and collect the claims towards the buyers shall automatically cease to apply and will be transferred to us. The customer is obliged to inform us of the transferred claims and their debtor on request, to provide us with all details required for the collection and to hand over all of the associated documents, especially books of accounts.

- 7.4. Processing, connection, mixture and/or blending of the reserved items by the customer shall always be carried out for us, without any resulting obligation for us. In case of processing, connection, mixture and/or blending with third-party parts, we shall assume co-ownership of the new item in proportion of the value of the reserved items to the other items at the time of processing, connection, mixture and/or blending. If the customer becomes the sole owner of the new item, it is agreed that the customer grants us co-ownership in the ratio of the gross invoice value. The customer shall store the resulting sole or co-property for us. For the goods resulting from processing, connection, mixture and/or blending, the same as for the reserved items delivered under retention of title also applies.
- 7.5. If the customer acts in violation of the contract, especially when it comes to defaults on payment, we are entitled to withdraw from the contract (enforcement event) and repossess our reserved goods which have not yet been paid. The customer, insofar, has no right of ownership. After the repossession, we are entitled to liquidate the goods. The realisation proceeds shall be credited to the liabilities of the customer after deduction of the realisation costs. The customer is free to provide evidence that the realisation caused unreasonably high costs. In this case, the difference need not be paid by the customer.
- 7.6. Pledging or chattel mortgage of our reserved goods on the part of the customer is not permitted. The goods delivered by us shall be expressly excluded from chattel mortgages of complete warehouses. In case of compulsory enforcement or seizures, the customer must point out the retention of title and notify us immediately in written form, to ensure that the required countermeasures can be taken. The customer is liable for any resulting costs and court and extrajudicial costs, provided that no compensation can be obtained elsewhere.
- 7.7. We are obliged to release the securities we are entitled to on request of the customer, as long as the realisable value of the securities exceeds the claims which are to be secured by more than 10%; we shall be responsible for choosing which securities to release.
- 7.8. If the reserved goods are delivered to a location outside of the Federal Republic of Germany or transported there by the customer, the following shall have priority over the sections 7.1 to 7.7: The customer must ensure that the retention of title is effectively protected in the country in which they are located or to which they are to be taken. If certain actions need to be taken for this purpose (e.g. special labelling or local registration) the customer shall do this in our favour and at his own expense. If our involvement is required, the customer will notify us immediately. In addition, the customer will inform us of all circumstances which are relevant in regard to the optimal protection of our property. He will in particular provide us with all documents and information which is necessary for the assertion of our rights of property. The provisions of this section 7.8 apply correspondingly if according to the legal system at the place where the goods are located, the retention of title cannot be effectively agreed, providing a legal position for us which equally effectively or in any other suitable form effectively protects our interests and claims, as far as this is legally possible.
- 7.9. We reserve the title and all proprietary rights of use and exploitation for illustrations, models, templates, samples, manufacturing means and similar objects as well as confidential details/ideas, which the customer is supplied with or are paid for by us. Without our prior approval, these objects and details/ideas may not be handed over or made available in any other form to third parties. The reproduction of such objects and details/ideas is only permitted within the frame of the requirements of the contractual relationship, as well as under consideration of the copyright regulations. Third parties which come into contact with the objects and details/ideas in accordance with the agreed terms must be put under obligation by the customer.

- 7.10. The customer is obliged to treat all of our (not publicly known) technical, commercial and personal procedures and relationships, which he became aware of in connection with contractual relationships with us or through offers, ancillary services, consultation and disclosures, at all times – even when in doubt – as trade/business secrets, maintain confidentiality and ensure that third parties (including family members and colleagues which are not involved) do not obtain unauthorised knowledge of them. The obligation to confidentiality continues to apply even after the termination of the contractual relationship.
- 7.11. If the customer culpably violates the confidentiality obligation, he is obliged to pay us a contractual penalty of 5% of the net order value per individual violation. The assertion of further or higher compensation claims remains reserved.

8. Defects, warranty

- 8.1. The customer is obliged to accept our works and installation services immediately, at the latest however within two days after the notice of completion or delivery – at our request together with us. The delivery is considered a request for acceptance. At our request, an acceptance report must be filled out.
- 8.2. In any case, the goods/services are considered accepted, if the delivery and, if an installation is owed, the installation is completed and 14 days have expired since the delivery or installation or if the customer denies the acceptance despite previous demands, unless the customer can refer to a notified defect, which excludes or significantly compromises the use of the goods/services.
- 8.3. Without prejudice to the ruling under section 4 or § 640 section 2 of the German Civil Code (BGB), we must be notified in writing of obvious defects, incorrect deliveries or discrepancies in amount immediately, at the latest within seven calendar days after delivery of the goods/services or acceptance of the works. The customer loses his reprimand rights after further processing has begun. Hidden defects must be reprimanded immediately, at the latest within seven days after their discovery. If the customer fails to send a timely notification, the goods/services are deemed to be approved as defect-free and accepted. In accordance with section 4.4, § 377 of the German Commercial Code (HGB) applies in addition. For recourse claims which originate from a consumer goods purchase, §§ 478, 479 of the German Civil Code (BGB) prevail.
- 8.4. Defects must be notified in written form. If we, in specific cases, accept an oral notification at our discretion, we will draft a written confirmation concerning the receipt.
- 8.5. After receipt of the defect notification, the goods/service is to be provided to us at our request, for inspection insofar as this is possible without unreasonable effort or we do not specify in written form an alternative procedure. In the case of unfounded notifications of defect, the customer shall bear the costs for the effort expended by us in carrying out the inspection.
- 8.6. If the customer insists on replacement delivery after founded complaint, this shall be limited to the elimination of the defect. § 439 para. 2 German Civil code (BGB) remains unaffected. If the replacement is faulty, or indeed if the reasonable limitation period specified in written form by the customer has been exceeded or does not comply with the legal regulations, the customer may withdraw from the contract or reduce the agreed price. However a fault, which cannot be rectified, does not constitute grounds for withdrawal.
- 8.7. We may refuse to carry out rectification of defects or replacement delivery, when the customer has not fulfilled their agreed liabilities towards us. The validity of the defect notification and relevant refusal of service/ rights of retention of the customer due to defects remain unaffected. The customer's right to a claim for defects and the corresponding rights to withhold/refuse payment due to defects, remain unaffected.
- 8.8. The guarantee is excluded when our goods/service is not used as prescribed by the customer or has, without our agreement been connected/blended or built into/with unsuitable parts (e.g. not our original parts or parts not complying with the instruction manual) and then the rectification of defects becomes impossible or becomes so difficult as to be considered impossible. In any case the customer must bear the additional costs incurred due to the rectification of defect. Furthermore, the guarantee is excluded from predetermined cases of wear, and from defects caused by inappropriate handling, incorrect operation and negligent treatment, in particular when the customer has not followed our operating and maintenance instructions.
- 8.9. The previously mentioned limitations on the validity of the guarantee do not apply in the case of absence of a property, which has been guaranteed, or by fraudulent concealment of a deficiency. Additionally, the customer's claim to damages resp. replacement of fruitless expense is determined by the framework of warranty acc. to Para. 9.

9. Damages

- 9.1. Each claim for damages arising from the customer, which is directly or indirectly connected with the order, delivery or usage of our goods/services or performance of our works, irrespective of their legal basis, are excluded. This

exclusion of liability is not valid in case of infringement of a material contractual obligation (Cardinal obligation). Cardinal obligations are obligations, whose fulfilment enables the acceptable carrying out of the contractual agreement and on whose fulfilment the customer regularly relies upon and can trust, together with all rights and obligations, which the contract is meant to grant according to its' content and purpose.

- 9.2. Our liability is in each case limited to the replacement or damages of a type that is foreseeable and typical for the contract. (Damages) Replacement claims from the customer against us, due to contractual penalty claims from the customer's buyers, can never be foreseeable and typical of the contract as described above. We always have the right to provide evidence of lesser damages.
- 9.3. Insofar as the damages are covered by an insurance agreement concluded by the customer for the relevant risk we shall only be liable for an associated disadvantage to the customer in the form of higher insurance premiums or interest payable until settlement by their insurance company.
- 9.4. The aforementioned exclusions and limitations of liability do not apply to injuries to life, body or health, which is due to a wilful or grossly negligent breach of obligation by us or one of our vicarious agents. Nor do the above exclusions and limitations of liability apply to any other damage which is due to a wilful or grossly negligent breach of obligation by us or one of our vicarious agents or when the other damages have been caused by the absence of a guaranteed property or fraudulent concealment of a defect.

10. Strict liability/Product liability

If based on a strict liability, in particular due to product liability, vis-à-vis third parties, claims are made against us then the customer is liable insofar as he would himself be liable directly. Our liability, insofar as it is legally possible, is excluded for measures taken by the customer to avoid losses e.g. recall programs.

11. Statute of limitations

- 11.1. Deviating from § 438 Abs. 1 Nr. 3 German Civil Code (BGB), the general statute of limitations for claims from the customer regarding defects of quality and defects of title shall be one year after delivery. When an acceptance has been agreed, the limitation period begins with the acceptance.
- 11.2. The previously mentioned statutes of limitation for sales rights are also valid for contractual and non-contractual claims for damages from the customer, which refer to a defect in the goods, except when the application of the regular statutes of limitation (§§ 195, 199 BGB) should lead in individual cases to shorter periods of limitation.
- 11.3. The statutes of limitation of the product liability laws remain unaffected. Equally unaffected shall be statutory exceptional regulations for material claims regarding third parties (§ 438 Abs. 1 Nr. 1 BGB) wilful deceit by the vendor (§ 438 Abs. 3 BGB) and for claims of recourse against the supplier in final supply to a consumer und (§ 479 BGB). Regarding claims for damages according to para. 9 the statutory limitations apply.

12. Applicable law, place of performance, place of jurisdiction

- 12.1. The business relationship between ourselves and the customers and in connection with the concluded contract are exclusively subject to the laws of the Federal Republic of Germany, with the exception of unified international law and in particular the United Nations convention on contracts for the international sale of goods (CISG).
- 12.2. Place of performance for all obligations arising from the contract is Zusmarshausen or respectively the location of the subsidiary with which the customer has concluded the contract.
- 12.3. The exclusive court of jurisdiction for all disputes arising directly or indirectly from the contract is Augsburg, insofar as the customer is a merchant in the sense of the German Commercial Code. Irrespective of whether the customer is a merchant, this shall also apply when the customer moves their place of residence or customary abode to a foreign country, or when their place of residence or customary abode is unknown at the time when legal action is filed, or our claims have been validated in the course of a legal dunning process. We are also entitled to take legal action in the general legal venue of the customer.

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