

# General Terms and Conditions of Delivery and Service

b+m Group

## § 1 Scope of application, form

- (1) These General Terms and Conditions of Delivery and Service ("GTCDS") apply to all our deliveries, services, offers and business relationships with our customers ("Customer"). These GTCDS shall only apply if the Customer is an entrepreneur (Section 14 of the German Civil Code (BGB)), a legal entity under public law or a special fund under public law. Our GTCDS are not intended for use with consumers pursuant to Section 13 BGB.
- (2) Unless otherwise agreed, these GTCDS shall also apply as a framework for similar future contracts in the version valid at the time of the Customer's order or in any case in the version last communicated to the Customer in text form, without the need for us to refer to them again in each individual case.
- (3) Our GTCDS shall apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the Customer shall only become part of the contract if and insofar as we have expressly agreed to their validity. This requirement of consent shall apply in any case, e.g., even if the Customer refers to its general terms and conditions in the order and we do not expressly object, even if the Customer's general terms and conditions provide for the acceptance of the order as an unconditional acceptance of the terms and conditions of purchase, if we perform deliveries and services without reservation or accept payments without objection. Our silence with regard to deviating terms and conditions shall in no case be deemed as acceptance or consent, not even for future contracts.
- (4) Individual agreements with the Customer (including collateral agreements, supplements and amendments) and information in our order confirmation shall take precedence over these GTCDS. Unless proven otherwise, a written contract or our written confirmation shall be decisive for the content of such agreements.
- (5) Documents and information provided by us, such as illustrations, drawings, weights and dimensions, shall only be binding if we expressly list them as part of the contract or expressly refer to them.
- (6) Legally relevant declarations and notifications of the Customer in connection with the contract (e.g. setting of deadlines, notification of defects, withdrawal or reduction) must be made in writing. Written form within the meaning of these GTCDS includes written and text form (e.g. letter, e-mail, fax). Statutory formal requirements and further evidence, in particular in cases of doubt as to the legitimacy of the party giving notice, shall remain unaffected.
- (7) References to the application of statutory provisions are for clarification purposes only. Therefore, even without such clarification, the statutory provisions shall apply unless they are directly modified or expressly excluded in these GTCDS.

## § 2 Conclusion of contract

- (1) Our offers are subject to confirmation. The contract shall only be concluded by our written order confirmation. We reserve the right to deviate from plans, descriptions and information in offers and written documents for reasons of technical improvement or to comply with legal or official requirements, without the contractual partner being able to derive any rights from this. Information about our products (technical

data, dimensions, designs, etc.) are only approximate and do not represent a guaranteed quality.

- (2) We reserve the property rights and copyrights to samples, drawings and proposals etc., also in electronic form. They may not be made available to third parties without our consent and must be returned immediately upon request.

## § 3 Prices and terms of payment

- (1) Unless otherwise agreed in individual cases, our prices valid at the time of the conclusion of the contract shall apply, ex works, plus the statutory value added tax (VAT), including loading at the factory, but excluding packaging and unloading.
- (2) In the case of sale by delivery to a place other than the place of performance (Section 5 para. 1 of these GTCDS), the Customer shall bear the transportation costs ex works and the costs of any transportation insurance requested by the Customer. Any customs duties, fees, taxes and other public charges shall be borne by the Customer.
- (3) Our prices are calculated on the basis of the wage and material costs applicable at the time of the offer. If a period of more than 4 months elapses between the conclusion of the contract and delivery, we shall be entitled to increase the prices accordingly in the event of price or cost increases.
- (4) Installation, assembly, repairs, programming, training and other services not included in our quotations will be charged at actual cost at our current rates, which may be obtained from us. Extra charges will be made for work performed outside normal working hours. Travel and waiting time are considered working time.
- (5) Unless otherwise agreed, payments shall be due as follows:

30 % of the agreed remuneration after receipt of the order confirmation or signing of the contract,

60 % after performance or notification of readiness for delivery/acceptance of the main parts,

10 % after transfer of risk.

- (6) Payments are to be made without any deductions within 10 calendar days of the invoice date to one of our accounts.  
We are entitled at any time, even within the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. We will make a corresponding reservation at the latest with the order confirmation.
- (7) After the expiration of the aforementioned payment period, the Customer is in default without the need for a further reminder. During the period of default, the purchase price shall be subject to interest at the applicable statutory rate. We reserve the right to claim further damages caused by default. Our claim for interest on arrears (Section 353 of the German Commercial Code (HGB)) against merchants remains unaffected.
- (8) The Customer shall only be entitled to rights of set-off or retention to the extent that his claim has been legally established or is undisputed.
- (9) If after conclusion of the contract it becomes apparent that our claim to the purchase price is endangered by the Customer's inability to pay (e.g. by an application for the opening of insolvency proceedings), we shall

be entitled to refuse performance in accordance with the statutory provisions and - if necessary after setting a deadline - to withdraw from the contract (Section 321 BGB). In the case of contracts for the manufacture of non-fungible goods (custom-made products), we may declare our withdrawal immediately; the statutory provisions on the dispensability of setting a deadline shall remain unaffected.

#### § 4 Performance period and delay in performance

- (1) Agreements on binding performance dates or assembly times must be made in writing. Our timely performance requires that all commercial and technical questions between us and the Customer have been clarified and that the Customer has fulfilled all obligations incumbent upon him, such as the provision of necessary official permits or the payment of an agreed down payment.
- (2) All performance periods shall commence on the date of dispatch of the order confirmation. They shall be deemed to have been met if the subject matter of the contract has left our works by the end of the performance period or if the goods have been notified as ready for dispatch. If acceptance is to take place, the acceptance date shall be decisive, alternatively our notification of readiness for acceptance.
- (3) Call-off orders must be accepted within 4 months of the date of the order confirmation, unless other dates are specified.
- (4) If compliance with the performance period is prevented in whole or in part by force majeure, such as labor disputes, operational disruptions, natural disasters, shortages of raw materials or energy, disruptions in the supply chain, sabotage, failure of telecommunications, information systems, means of transportation or energy supply, currency and trade restrictions, embargoes, sanctions, official measures, compliance with laws or governmental orders, epidemics or pandemics, fire, war and riots or other events for which we are not responsible, regardless of whether they occur in our business or in the business of a third-party on which the respective contractual performance is substantially dependent, we shall be relieved from the obligation to perform our contractual obligations and from any liability for damages or any other contractual remedy for breach of contract for as long as the respective event prevents us from performing the contract. This also applies if we are already in default. We will inform the Customer immediately.
- (5) The occurrence of default on our part shall be determined in accordance with the statutory provisions. In any case, however, a reminder by the Customer is required. If we are in default and the Customer suffers damage as a result, the Customer may demand a lump sum compensation for the damage caused by the delay. The lump sum compensation shall amount to 0.5% for each full calendar week of the delay, but not more than a total of 5% of the value of that part of the total performance which cannot be used on time or in accordance with the contract as a result of the delay. We reserve the right to prove that the Customer has not suffered any damage or has suffered significantly less damage than the above lump sum.
- (6) Any further claims of the Customer arising from delay in performance shall be determined exclusively in accordance with Section 9 of these GTCDS.

#### § 5 Delivery, passing of risk, default of acceptance

- (1) Delivery shall be ex works, which shall also be the place of performance for delivery and any subsequent performance. At the Customer's request and expense, the goods shall be shipped to another destination (sales shipment). Unless otherwise agreed, we

are entitled to determine the type of shipment (in particular carrier, shipping route, packaging).

- (2) The risk of accidental loss and accidental deterioration of the goods shall pass to the Customer at the latest upon delivery. In the case of sale by shipment, however, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall pass to the Customer upon delivery of the goods to the forwarding agent, the carrier or the person or institution otherwise designated to carry out the shipment. If acceptance has been agreed, this shall be decisive for the passing of risk.
- (3) In accordance with Section 377 HGB, the Customer must inspect the goods immediately upon delivery, at the latest within 5 working days, for damage in transit and for deviations from the specifications in the order confirmation or delivery schedule and must notify us in writing without delay of any damage or deviations.
- (4) If the goods are shipped by rail or freight carrier, the Customer shall immediately notify the rail or freight carrier of any damage and arrange for a joint assessment of the damage. Delayed notification of transport damage does not entitle the Customer to compensation, withdrawal or a right of retention.
- (5) If the Customer is in default of acceptance, fails to cooperate or if our performance is delayed for other reasons for which the Customer is responsible, we shall be entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs).
- (6) Our further statutory rights (in particular termination) shall remain unaffected.

#### § 6 Retention of title

- (1) We retain title to the delivery item sold until full payment of all our present and future claims, including claims arising from contracts concluded at the same time or later (secured claims).
- (2) If the validity of the retention of title in the country of destination is subject to special conditions or special formal requirements, the Customer must ensure that these are met.
- (3) We are entitled to inspect the reserved goods at any time at the place where they are located.
- (4) The Customer undertakes to treat the reserved goods with care as long as the title has not yet passed to him. In particular, he is obliged to insure the goods at his own expense against fire, water damage and theft at replacement value. If maintenance and inspection work is necessary, the Customer must carry this out at his own expense.
- (5) The reserved goods may neither be pledged to third parties nor transferred by way of security until the secured claims have been paid in full. The Customer must inform us immediately in writing if an application is made to open insolvency proceedings or if third parties have access to the goods belonging to us (e.g. seizure).
- (6) If the Customer acts in breach of the contract, in particular in the event of non-payment of the purchase price due, we shall be entitled to withdraw from the contract in accordance with the statutory provisions and/or to demand the return of the goods on the basis of the retention of title. The demand for the return of the goods does not include the declaration of withdrawal; we are entitled to demand the return of the goods and reserve the right to withdraw from the contract. If the Customer does not pay the purchase price due, we can only assert these rights if we have previously set the Customer a reasonable deadline for payment without success or if the setting of such a deadline is dispensable according to the statutory provisions. In the event of withdrawal, the Customer is obliged to return the goods without further ado and to bear the transport costs necessary for their return.

- (7) If, after conclusion of the contract, it becomes apparent that our claim to the purchase price is jeopardized by the Customer's inability to pay, we shall be entitled to refuse performance in accordance with the statutory provisions and - if necessary after setting a deadline - to withdraw from the contract. In the case of contracts for the manufacture of non-fungible items (custom-made products), we may declare our withdrawal immediately; the statutory provisions on the dispensability of setting a deadline shall remain unaffected.
- (8) Until revoked in accordance with (c) below, the Customer is entitled to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply in addition.
- (a) The retention of title shall extend to the full value of the products resulting from the processing, mixing or combination of our goods, whereby we shall be deemed to be the manufacturer. If, in the case of processing, mixing or combining with goods of third parties, their title remains, we shall acquire co-ownership in the ratio of the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the resulting product as to the goods delivered under retention of title.
- (b) The Customer hereby assigns to us by way of security all claims against third parties arising from the resale of the goods or product in their entirety or in the amount of our possible co-ownership share pursuant to with the preceding paragraph. We accept this assignment. The obligations of the Customer mentioned in Section 6 para. 5 of these GTCDS shall also apply with regard to the assigned claims.
- (c) In addition to us, the Customer remains authorized to collect the claim. We undertake not to collect the claim as long as the Customer meets his payment obligations to us, his insolvency is not in question and we do not assert the retention of title by exercising a right in accordance with Section 6 para. 6 of these GTCDS. If this is the case, however, we can demand that the Customer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment. In this case, we are also entitled to revoke the Customer's authorization to resell and process the reserved goods.
- (d) If the realizable value of the securities exceeds our claims by more than 10%, we shall release securities of our choice at the Customer's request.

### § 7 Acceptance

- (1) Our work shall be deemed to have been accepted 10 working days after our notification of readiness for acceptance, unless the Customer notifies us in writing of significant defects within this period.
- (2) The result of the acceptance shall be recorded in a protocol signed by both parties.
- (3) If we only provide planning or design services, our services shall be deemed to have been accepted 10 working days after receipt of the plans and design documents by the Customer, unless the Customer notifies us in writing of defects within this period.
- (4) The Customer shall only be entitled to refuse acceptance if the defect nullifies or substantially reduces the normal and/or contractually agreed use of the work and/or its value. In the case of defects which do not entitle the Customer to refuse acceptance, acceptance shall be subject to the condition that the defect is remedied.

- (5) Refusal of acceptance or reservations against acceptance must be made immediately in writing, stating and describing the defect complained of.
- (6) Acceptance shall be deemed to have taken place when the Customer has put the delivery item or the object of service into operation.

### § 8 Customer claims for defects

- (1) The following applies to the Customer's rights in the event of material defects and defects in title:
- (a) As a matter of principle, we shall not be liable for defects of which the Customer is aware or has not been aware due to gross negligence at the time of conclusion of the contract (Section 442 BGB). In addition, the Customer's claims for defects require that he has fulfilled his statutory obligations to inspect and give notice of defects (Section 377 HGB; see above Section 5 para. 3 of these GTCDS). If a defect is discovered upon delivery, inspection or at a later point in time, we must be notified immediately in writing. In any case, obvious defects must be reported in writing within 10 working days of delivery and defects not identifiable on inspection must be reported in writing within the same period of time after discovery. If the Customer fails to carry out the proper inspection and/or notification of defects, our liability for the defect not notified, not notified in time or not notified properly shall be excluded in accordance with the statutory provisions. In the case of goods intended for assembly, erection or installation, this shall also apply if the defect only becomes apparent after such processing as a result of a breach of one of these obligations; in this case, the Customer shall in particular have no claim to reimbursement of the corresponding costs ("dismantling and installation costs").
- (b) Claims for defects on the part of the Customer shall not arise in the event of improper storage, installation, commissioning or use of the contractual items by the Customer or third parties, in the event of faulty assembly or commissioning by the Customer or third parties, in the event of natural wear and tear, in the event of improper maintenance or failure to observe the maintenance intervals specified in the documentation, in the event of use of unsuitable materials, in the event of improper assembly or commissioning by the Customer or third parties not expressly approved by us, incomplete or incorrect information provided by the Customer, defective construction work, unsuitable building ground, harmful environmental conditions unknown to us, chemical, electrochemical, electrical or other influences - unless we are responsible for them.
- (c) If the subject matter of the contract was already demonstrably defective at the time of the passing of risk in accordance with Section 5 of these GTCDS, the Customer shall be entitled to subsequent performance. In this case, we may at our opinion, remedy the defect (rectification) or deliver a defect-free item (replacement).
- (d) If the supplementary performance is associated with disproportionately high costs, we have the right to refuse the supplementary performance.
- (e) We are entitled to make the subsequent performance owed dependent on the payment of the purchase price due by the Customer.
- (f) The Customer must give us the necessary time and opportunity to remedy the defect, in particular to hand over the defective goods for inspection. In the event of a replacement delivery, the

Customer shall, upon our request, return the defective goods to us in accordance with the statutory provisions; however, the Customer shall not be entitled to claim the return of the goods.

- (g) Only in urgent cases, e.g. if operational safety is at risk or to prevent disproportionate damage, shall the Customer have the right to remedy the defect itself and to demand compensation from us for the objectively necessary expenses. We must be notified immediately, if possible in advance, of such self-remedy. The right of self-remedy shall not apply if we would be entitled to refuse such subsequent performance in accordance with the statutory provisions.
- (h) We shall bear or reimburse the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labor and material costs as well as any dismantling and installation costs, in accordance with the statutory provisions and these GTCDS, if a defect actually exists and insofar as these are not increased by the fact that the subject matter of the contract has been brought to a place other than the place of performance. In the event of an unjustified request to remedy a defect, we may demand reimbursement of the costs incurred by us from the Customer. Subsequent performance does not include the disassembly, removal or dismantling of the defective item or the installation, attachment or installation of a defect-free item if we were not originally obliged to perform these services.
- (i) If the Customer has culpably contributed to the defect, in particular by failing to comply with his obligation to avoid or reduce damage, we shall be entitled to claim damages in the amount of the Customer's contribution after subsequent performance.
- (j) The Customer shall only be entitled to reduce payment or withdraw from the contract - taking into account the statutory exceptions - if subsequent performance has failed twice after a reasonable period of grace has been set. In the case of an insignificant defect, however, there is no right of withdrawal. In addition to the right to withdraw from the contract, the Customer shall not be entitled to claim damages on account of the defect.
- (k) Further claims of the Customer (in particular for damages or reimbursement of expenses) shall only exist in accordance with the following Section 9 and 10 of these GTCDS, even in the event of defects in the subject matter of the contract.
- (l) In the case of the sale of used goods, claims for defects are excluded unless liability is prescribed by law.

### § 9 Liability

- (1) Our liability, also in the case of damages due to breaches of duty during contract negotiations (in particular also in the case of damages that have not occurred to the delivery item itself), regardless of the legal grounds, shall be limited to
  - (a) intention;
  - (b) gross negligence on the part of the organs or executive employees;
  - (c) culpable injury to life, body or health;
  - (d) fraudulently concealed defects;
  - (e) breach of quality guarantees assumed;
  - (f) defects in the delivery item, to the extent that liability exists under the Product Liability Act for personal injury and property damage to privately used items.

In the event of a culpable breach of a material contractual obligation (an obligation whose fulfillment is essential to the proper execution of the contract and on the fulfillment of which the contractual partner regularly relies and may rely), we shall also be liable for gross negligence of non-executive employees and for slight negligence; in the latter case, however, limited to the reasonably foreseeable damage typical for the contract.

- (2) Compensation for purely financial losses is also limited by the general principles of good faith, for example in cases of disproportion between the value of the order and the amount of the loss.
- (3) Further claims - for whatever legal reason - are excluded, in particular also in the case of damages that have not occurred to the delivery item itself.

### § 10 Statute of limitations

- (1) All claims of the Customer - for whatever legal reason - shall become statute-barred 12 months after the transfer of risk.
- (2) The statutory period of limitation shall apply to the Customer's claims for defects in accordance with Section 8 (1) (a) - (f) of these GTCDS as well as to claims based on defects in buildings or for delivery items that have been used for a building in accordance with their customary purpose and have caused its defectiveness.

### § 11 Installation, repairs and other services

The following also applies to assembly, repairs and other services:

- (1) The Customer shall support our personnel in the preparation and execution of the work at his own expense and provide the necessary assistance, in particular he shall undertake all structural preparations, provide the necessary equipment and heavy tools (e.g. lifting gear, compressors) as well as the necessary commodities and materials such as water, electricity, light, etc. free of charge.
- (2) The Customer shall be responsible for compliance with the applicable accident prevention regulations and shall take the necessary measures. He also undertakes, at his own expense, to inform our personnel of existing safety regulations and hazards. Violations of safety regulations by our personnel must be reported to us immediately.
- (3) The Customer's assistance must ensure that our work can be started immediately after the arrival of our personnel and can be carried out without delay until acceptance by the Customer.
- (4) If the Customer does not fulfill his obligations, we are entitled, but not obliged, to carry out the measures incumbent on the Customer in his place and at his expense. Our statutory rights and claims shall otherwise remain unaffected.
- (5) If a service cannot be provided in full for reasons for which we are not responsible, the Customer must reimburse us for the services already provided by us up to that point and for the expenses incurred.
- (6) If we - taking into account the statutory exceptions - allow a reasonable period set for us to remedy the defect to elapse without result, the Customer shall be entitled to a reduction of the purchase price within the scope of the statutory provisions. The Customer may only withdraw from the contract if the installation, repair and other services are demonstrably of no interest to the Customer despite the reduction.
- (7) If the equipment or tools provided by us are damaged or lost through no fault of our own, the Customer shall be obligated to compensate for such damage. Damage



due to normal wear and tear shall not be taken into account.

- (8) If we replace parts in the course of assembly, repairs and other services, the replaced parts shall become our property.

#### § 12 Software

- (1) If the scope of delivery includes software, the Customer shall be granted a non-exclusive right to use the delivered software, including its documentation on the delivery item intended for this purpose. Use of the software on more than one system is prohibited.
- (2) Services such as training, support, maintenance or the provision of updates or upgrades are not owed, but can be contractually agreed separately.
- (3) The Customer undertakes not to remove or change manufacturer's details, in particular copyright notices, without our prior express written consent.
- (4) All rights to the software and the documentation, including copies, shall remain with us or the software supplier.
- (5) The granting of sublicenses is not permitted.
- (6) In addition, our current General Terms and Conditions of Delivery and Service - Software - apply to all our IT services.

#### § 13 Ownership, confidentiality

- (1) The information and documents (e.g. samples, cost estimates, drawings) provided by us or at our instigation - also in electronic form - shall remain our exclusive intellectual property. In particular, no rights of use or licensing rights shall be created. They shall be returned to us immediately and in full upon our request.
- (2) The Customer undertakes to treat all non-public information, commercial and technical details of which he becomes aware as a result of the existing business relationship as confidential, not to exploit them and not to make them accessible to third parties.
- (3) Information within the meaning of Section 13 (2) of these GTCDS shall include in particular, trade secrets, manufacturing processes, assembly processes, know-how, ideas, drawings, computer simulations, presentations, plans, drafts, research, developments, information on products, services, specifications, methods, formulas, software including source code, samples, documentation, calculations, market and Customer data, business relationships, business strategies, marketing and trading strategies, irrespective of whether they are communicated in embodied, non-embodied, electronic or other form.
- (4) Models, samples and other means of production which we have made available to the Customer may only be used for purposes other than the operation of the subject matter of the contract with our written consent.

#### § 14 Regulations to be observed, export control

- (1) The Customer undertakes to comply with all applicable laws, ordinances and regulations, in particular export control laws.
- (2) The Customer shall take all necessary and appropriate measures to comply with European, national and, where applicable, international export regulations.
- (3) The Customer shall indemnify us against all claims, fines or other sanctions that may be imposed against us as a result of violations of legal norms by the Customer in connection with our services.

#### § 15 Applicable law, place of jurisdiction

- (1) These GTCDS as well as all contracts concluded on the basis thereof and all contractual relationships between us and the Customer shall be governed exclusively by the laws of the Federal Republic of Germany, excluding its conflict of laws regulations and

- (2) the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG). If the Customer is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law or a special fund under public law, our registered office shall be the exclusive - also international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship. The same applies if the Customer is an entrepreneur in the sense of Section 14 BGB. In all cases, however, we shall also be entitled to bring an action at the place of performance of the obligation to perform according to these GTCDS or an overriding individual agreement or at the Customer's general place of jurisdiction. Overriding statutory provisions, in particular with regard to exclusive jurisdiction, shall remain unaffected.

#### § 16 Final provisions

- (1) In order to comply with the take-back obligations pursuant to Section 15 of the German Packaging Act (VerpackG), we shall ensure that the packaging delivered to us is taken back and properly and professionally recycled. The packaging shall be taken back by a third party commissioned by us at the Customer's request. The costs of collection and recycling shall be borne by the Customer. If the packaging delivered by us is not returned in accordance with this provision, the Customer shall be responsible for the proper and professional recycling of the packaging at its own expense.
- (2) The place of performance for the Customer's obligation towards us is our registered office.
- (3) Should individual provisions of these terms and conditions or of the contract be or become invalid in whole or in part, this shall not affect the validity of the remaining provisions.