

General Terms and Conditions of BSD Bildungs- und Servicezentrum GmbH



Terms of delivery

Applicable in business transactions with entrepreneurs, legal persons under of public law and special funds under public law.

1. General

- 1.1 Only the following terms and conditions apply to our deliveries. Contradictory terms and conditions or terms and conditions that deviate from our terms and conditions shall not apply unless we have expressly agreed to their validity. The following terms and conditions shall also apply if we carry out the delivery to the customer without reservation in the knowledge that the customer's terms and conditions are contrary to or deviate from our terms and conditions.
- 1.2 Verbal agreements before or at the time of conclusion of the contract require our written confirmation in order to be valid.
- 1.3 If the customer does not accept our offer within two weeks of receipt, we are entitled to revoke it.
- 1.4 Cost estimates are non-binding unless expressly agreed otherwise.
- 1.5 These terms and conditions shall also apply to all future deliveries to the orderer
- 1.6 Furthermore, we make the principles of our "Code of Conduct" an integral part of our supplier relations. These can be viewed and downloaded from our company homepage at www.bsd-dresden.de.

2. Prices

- 2.1 The calculation is based on the list prices valid at the time of the valid at the time of delivery plus value-added tax. VAT shall not be calculated only in cases where the conditions for tax exemption of export deliveries are met.
- 2.2 If no special agreement has been made, the prices are to be understood "ex works" (Incoterms 2000) excluding packaging.
- 2.3 We reserve the right to change our prices appropriately if cost reductions or cost increases occur after conclusion of the contract, in particular due to changes in labour costs, e.g. due to collective wage agreements or changes in the price of materials. We will prove these to the purchaser on request.
- 2.4 Replacement part deliveries and the return of repaired goods, insofar as these are not covered by the liability for material defects, shall be effected against the charging of a reasonable flat-rate shipping and packaging fee in addition to the remuneration for the service rendered by us.
- 2.5 For orders below a value of goods of 50,- € we charge a minimum quantity surcharge of 5,- €.

3. Delivery; Delivery Periods; Delay

- 3.1 The commencement of and compliance with agreed delivery periods shall be conditional upon the fulfilment of the obligations to co-operate, in particular the timely receipt of all provisions, documents, approvals, examinations and releases to be provided by the Purchaser and compliance with the agreed terms of payment by the Purchaser, releases and compliance with the agreed terms of payment by the customer. If these preconditions are not duly fulfilled in good time, the delivery periods shall be extended by a reasonable period of time. This shall not apply if the Supplier is solely responsible for the delay
- 3.2 If non-compliance with the delivery deadlines is due to force majeure and other disturbances disruptions for which we are not responsible, e.g. war, terrorist attacks, import and export restrictions, industrial disputes, including those affecting suppliers, the agreed delivery periods shall be extended accordingly.
- 3.3 If we are in default with our delivery, the purchaser shall declare at our request within a reasonable period of time whether he wishes to withdraw from the contract due to the delay in delivery, and/or claims damages in lieu of performance or insists on delivery
- 3.4 For claims for damages of the purchaser due to delay in delivery delivery shall be governed by clause 9.

- 3.5 If dispatch or delivery is delayed at the request of the Purchaser by more than one month after notification of readiness for dispatch, the Purchaser may be charged storage costs amounting to 0.5% of the price of the items of the delivery for each month commenced, but not more than a total of 5% of the price of the items of the delivery. The contracting parties shall be at liberty to prove higher or lower storage costs. Further claims due to default of acceptance remain unaffected..
- 3.6 Partial deliveries and corresponding settlements are permissible unless they are unreasonable for the customer..

4. Transfer of risk

- 4.1 Delivery shall be made "ex works" (Incoterms 2000), unless otherwise expressly agreed otherwise.
- 4.2 At the request and expense of the purchaser, deliveries will be insured by us against the usual transport risks.

5. Complaints and notices of defects

- 5.1 The customer shall notify us in writing of any recognisable material defects immediately, at the latest 15 days after receipt of the goods at the latest. Carton labels, content labels and control slips enclosed with the consignment must be sent in with the complaint. Other material defects shall be notified by the customer in writing immediately after discovery. The date of receipt of the notice of defect by us shall be decisive in each case.
- 5.2 If a notice of defect is unjustified, we shall be entitled to demand reimbursement of the expenses incurred by us from the customer.
- 5.3 In the event of late notification of a material defect, claims for claims for material defects are excluded.

6. Receipt

- 6.1 The customer may not refuse to accept deliveries due to insignificant of deliveries due to insignificant defects.

7. Material defects/legal defects

- 7.1 Claims for material defects shall become statute-barred after 12 months. The above provision shall not apply if longer limitation periods are prescribed by law pursuant to §§ 438 para. 1 no. 2 (buildings and things used for a building), 479 para. 1 (right of recourse) and § 634a (building defects) BGB. (German Civil Code).
- 7.2 The limitation period for material defects begins with the delivery of the item (transfer of risk).
- 7.3 In the event of a material defect within the limitation period, the cause of which already existed at the time of the transfer of risk, we may, at our discretion, remedy the defect or deliver a defect-free item as subsequent performance.
- 7.4 Subsequent performance does not restart the limitation period.
- 7.5 If the subsequent performance fails, the customer may - without prejudice to any claims for damages - withdraw from the contract or reduce the remuneration.
- 7.6 Claims by the customer for expenses incurred for the purpose of subsequent performance, in particular transport, travel, labour and material costs, are excluded, labour and material costs, shall be excluded insofar as the expenses increase because the subject matter of the delivery has subsequently been taken to a place other than the customer's unless the transfer is in accordance with the intended use of the goods.
- 7.7 Claims for material defects shall not exist in the case of only insignificant deviations from the agreed quality or in the case of only insignificant impairment of the usability.
- 7.8 Material defects are not
 - use-related or other natural wear and tear;
 - condition of the goods or damage which occurs after the after the transfer of risk as a result of improper handling, storage or or installation, non-observance of installation and treatment instructions, excessive stress or use or lack of maintenance or care;
 - the condition of the goods or damage caused by force majeure, special external influences not provided for in the contract or due to the use of the goods outside the normal or expected conditions of use use of the goods outside the scope of the contract or use assumed under the contract;
 - non-reproducible software errors.

Claims for material defects shall not exist if the goods are modified by

third parties or by the addition or installation of parts of third party origin or if accessories or spare parts of third party origin are used, unless the defect is not causally connected with the modification or use. We shall not be liable for the quality of the goods which is based on the design or the choice of material, provided that the customer has prescribed the design or the material.

- 7.9 The purchaser's right of recourse against us shall only exist insofar as the purchaser has not made any agreements with his customer that go beyond the statutory claims for defects, e.g. goodwill agreements, have been made with his customer..
- 7.10 Claims based on material defects, including claims under a right of recourse on the part of the customer, shall be excluded if the customer has had the defect remedied by a specialist workshop/service centre not authorised by us.
- 7.11 Clauses 7.3, 7.6, 7.7 shall not apply if our product has demonstrably been sold to a consumer without processing or incorporation into another item by the purchaser or customer was sold to a consumer by the purchaser or the purchaser's customer.
- 7.12 Our obligation to pay compensation and reimbursement of futile expenses due to material defects shall futile expenses within the meaning of § 284 of the German Civil Code (BGB) due to material defects shall otherwise be governed by Clause 9. Further claims or claims of the Purchaser other than those governed by this Clause 7 due to material defects shall be excluded.
- 7.13 Defects in title which are not due to the infringement of third party third parties, the provisions of this clause 7 shall apply accordingly.

8. Property rights and copyrights

- 8.1 We shall not be liable for claims arising from the infringement of industrial property rights or copyrights of third parties (hereinafter: property rights) if the property right is or was owned by the customer or by a company in which the customer directly or indirectly held a majority of the capital or voting rights.
- 8.2 We shall not be liable for claims arising from infringement of industrial property rights unless at least one industrial property right from the family of industrial property rights has been published either by the European Patent Office or in one of the following countries: Federal Republic of Germany, France, Great Britain, Austria or the USA.
- 8.3 The purchaser must inform us immediately of any (alleged) infringements of industrial property rights or risks in this respect and to leave the conduct of legal disputes (including out-of-court disputes) to us upon our.
- 8.4 At our discretion, we shall be entitled to obtain a right of use for the infringing product or to modify it in such a way that it no longer infringes the property right or to replace it with a similar product that no longer infringes the property right.
If this is not possible for us under reasonable conditions or within a reasonable period of time, the customer - insofar as he has made it possible for us to carry out a modification - shall be entitled to the statutory rights of rescission. Under the aforementioned conditions, we shall also be entitled to withdraw from the contract. The provision of clause 7.9 shall apply accordingly. We reserve the right to take the measures available to us according to this clause 8.4 sentence 2 even if the infringement of property rights has not yet been legally established or acknowledged by us.
- 8.5 Claims of the customer are excluded insofar as he is responsible for the infringement of property rights or he does not support us to a reasonable extent in the defence against claims of third parties..
- 8.6 Claims of the purchaser are furthermore excluded if the manufactured in accordance with the specification or instructions of the purchaser or the (alleged) infringement of the property right results from the use in combination with another object not originating from us or the products are used in a manner which we could not foresee. 8.7 Our obligation to pay damages in the event of an infringement of property rights shall otherwise be governed by clause 9.
- 8.8 The statute of limitations for claims based on infringements of property rights 7.1 and 7.2 shall apply.
- 8.9 Further claims or claims other than those regulated in this Clause 8 of the purchaser on account of the infringement of third third parties are excluded.

9. compensation claim

- 9.1 Unless otherwise stipulated in these terms and conditions of delivery, we shall be liable for damages and compensation for futile expenses within the meaning of § 284 BGB (hereinafter referred to as "damages"). due to breach of contractual or non-contractual obligations only in the case of intent or gross negligence of our legal representatives or vicarious agents, in the event of injury to life, limb or health, on account of the assumption of a guarantee or a procurement risk. The breach of essential contractual obligations, due to mandatory liability under the Product Liability Act or other mandatory liability. The compensation for the breach of essential contractual obligations is, however, limited to the foreseeable damage typical for the contract, unless there is intent or gross negligence on the part of our legal representatives or vicarious agents or due to injury to life, limb or health or the assumption of a guarantee or a procurement risk. A change in the burden of proof to the detriment of the purchaser is not associated with the above provisions..

10. Reservation of ownership

- 10.1 We retain title to the delivered goods until all claims to which we are entitled and which may still arise until complete fulfilment.
- 10.2 The customer is entitled to process or combine our products within the scope of his ordinary business operations. We shall acquire co-ownership of the products resulting from the processing or products resulting from the processing or combination as security for our claims referred to in clause 10.1, which the customer hereby assigns to us. The purchaser shall store the objects of our co-ownership free of charge as a secondary contractual obligation. The amount of our co-ownership share shall be determined in accordance with the ratio of the value of our product and the object created by the processing or combination.
- 10.3 The purchaser shall be entitled to resell the goods in the ordinary course of business transactions against cash payment or subject to retention of title. The customer hereby assigns to us in full all claims to which he is entitled from the resale of our product, including ancillary rights, irrespective of whether our product has been further processed or not. The assigned claims serve as security for our claims according to clause 10.1. The customer is entitled to collect the assigned claims. We shall be entitled to revoke the rights of the customer according to this clause 10.3 if the customer does not properly fulfil his contractual obligations towards us, in particular if he is in default of payment. These rights shall also lapse without express revocation if the customer suspends his payments for longer than merely temporarily.
- 10.4 At our request, the customer shall immediately inform us in writing to whom he has sold goods owned or co-owned by us and which claims he is entitled to from the resale, as well as to issue to us, at his expense, publicly certified documents on the assignment of the claims..
- 10.5 The customer shall not be entitled to dispose in any other way of the items to which we retain title or co-ownership or of the claims assigned to us. The customer shall notify us immediately of any seizure or other impairment of rights to the items or claims belonging to us in whole or in part. The customer shall bear all costs which third parties to our reserved property or property serving as security and for the replacement of the object, insofar as they cannot be collected by third parties.
- 10.6 In the event of default in payment or any other culpable breach of material contractual obligations on the part of the customer, we shall be entitled to demand the surrender of the items to which we retain title or ownership by way of security. If we make use of this right, this shall only constitute a rescission of the contract if we expressly declare this.
- 10.7 The application for the opening of insolvency proceedings entitles us to withdraw from the contract and to demand the immediate return of the deliveries.
- 10.8 If the value of the securities existing for us exceeds our claims by more than 10 % in total, we shall, at the customer's release securities of our choice.

11. Confidentiality

- 11.1 All business or technical information originating from us (including features information to be taken from objects or software handed over and other knowledge or experience) is to be kept secret from third parties as long as and to the extent that it is not demonstrably public knowledge or has not been designated by us for resale by the customer and may only be made available in the customer's own business to those persons who must necessarily be involved in its use and who are also obliged to maintain secrecy; it remains our exclusive property. Such information may not be reproduced or used commercially without our prior written consent. At our request, all information originating from us (including any copies or records made, if applicable) and items provided on loan must be returned to us immediately in full or destroyed.
- 11.2 We reserve all rights to the information referred to in clause 11.1. (including copyrights and the right to register industrial property rights, such as patents, utility models, semiconductor protection, etc.).

12. Terms of payment

- 12.1 Unless otherwise agreed in writing, payment shall be effected within within 30 days of the invoice date without any deductions. We may, however, also make delivery dependent on concurrent payment (e.g. by cash on delivery or bank direct debit) or an advance payment. Invoices for training measures and services are due within 14 days of the invoice date without any deductions.
- 12.3 If the payment deadline is exceeded, we shall be entitled to demand interest on arrears in the amount of 8% above the base interest rate. The assertion of further damages is not excluded.
- 12.4 Payment by bill of exchange is only permissible after prior agreement with us. Bills of exchange and cheques shall only be accepted by us on account of performance and shall only be deemed to be payment after they have been honoured.
- 12.5 If the customer is in default of payment, we shall be entitled to demand immediate cash payment for all due and undisputed claims arising from the business relationship. This right is not excluded by a deferment or the acceptance of bills of exchange or cheques.
- 12.6 The Purchaser shall only be entitled to withhold payments or to offset them against counterclaims to the extent that its counterclaims are undisputed or have been finally determined by a court of law.

13. General provisions

- 13.1 Should any provision of these terms and conditions and the further agreements made, be or become invalid, this shall not affect the validity of the remaining provisions. The contracting parties shall be obliged to replace the invalid provision with a provision that comes as close as possible to it in terms of economic success.
- 13.2 The place of jurisdiction is Dresden or, at our discretion, the registered office of the
the place of business which executes the order, if the customer is a
- merchant or
- has no general domestic place of jurisdiction or
- has moved his domicile or habitual place of residence out of
place of residence or usual place of residence is not known at the time
the action is brought. is not known. We are also entitled to bring an
action before a court which is competent for the registered office or a
branch of the customer.
- 13.3 All legal relationships between us and the purchaser shall be governed by German law shall apply exclusively to the exclusion of the conflict of laws provisions and the United Nations Convention on Contracts for the International Sale of Goods (CISG).