

## Terms and Conditions of Purchase

Applicable to business transactions with companies, legal entities under public law and special funds under public law.

### 1. General

Our Terms and Conditions of Purchase apply exclusively; general business terms and conditions of the supplier conflicting with or deviating from our Terms and Conditions of Purchase are only recognized insofar as we expressly agreed to them in writing. Acceptance or payment of goods and services from the supplier (hereinafter referred to as "Products") does not constitute agreement, even if the acceptance or payment is made with knowledge of conflicting or supplementary terms and conditions of contract of the supplier. Similarly, any terms and conditions of contract of the supplier previously agreed upon that conflict with or supplement these Terms and Conditions of Purchase shall no longer be recognized.

### 2. Conclusion of and Modifications to the Contract

- 2.1. Orders, contracts and order releases as well as modifications and supplements thereto must be placed and made in writing.
- 2.2. Oral agreements of any kind – including subsequent modifications and supplements to our Terms and Conditions of Purchase – must be confirmed by us in writing to become effective.
- 2.3. The written form requirement is also deemed complied with if communications are sent by remote data transmission, telefax or email.
- 2.4. Cost estimates are binding and are not to be compensated unless otherwise expressly agreed.
- 2.5. We are entitled to cancel the order if the supplier does not accept the order within two weeks of receipt thereof.
- 2.6. Order releases within the framework of order and order release planning become binding if the supplier does not object within two working days of receipt thereof.
- 2.7. The Quality Assurance Guideline for Suppliers (QSR, QSV), the Logistics Manual (LRL) and the Delivery and Packaging Specifications of BMTS TECHNOLOGY GmbH & Co. KG (hereinafter referred to as "BMTS") form an integral part of the contract (available at [www.bmts-technology.com](http://www.bmts-technology.com) in the download section)

### 3. Delivery

- 3.1. Deliveries deviating from our contracts and orders are only admissible if given our prior written approval.
- 3.2. Agreed periods and dates are binding. Punctual compliance with the delivery periods and delivery dates is determined by the date of receipt of the goods by us.

In principle, the delivery condition FCA point of departure applies according to Incoterms 2010.

The supplier shall make the goods available in good time, taking account of the time for loading and shipment to be agreed with the forwarder.

- 3.3. If the supplier is responsible for setup or installation, the supplier shall bear all the necessary incidental costs such as travel expenses, provision of tools and daily allowances.
- 3.4. The provisions of statute shall apply if agreed dates are not met. If the supplier anticipates difficulties with respect to production, the supply of precursor material, compliance with the delivery period or similar circumstances that could interfere with supplier's ability to deliver punctually or to deliver the agreed quality, the supplier must immediately notify our ordering department.
- 3.5. The unconditional acceptance of a delayed delivery or service does not constitute a waiver of claims to which we are entitled due to the delayed delivery or service; this applies pending full payment of the amounts owed by us for the delivery or service in question.
- 3.6. Partial deliveries are inadmissible in principle unless we expressly agreed to them or can reasonably be expected to accept them.
- 3.7. The values established by us during the incoming goods inspection shall determine the quantities, weights and measurements subject to the reservation of different values being proved.
- 3.8. Unless otherwise stipulated in the supplementary conditions

of purchase for the software, BMTS shall together with the delivery receive simple rights of use, unrestricted in terms of time and territory, to use software belonging to the scope of delivery. Our permissible use encompasses, in particular, duplication, loading and running the software. It also encompasses sublicensing, renting and every other form of passing the software on to companies affiliated to us within the meaning of § 15 AktG (Stock Corporation Act).

- 3.9. We also have the right to use such software, including the software documentation, with the agreed performance characteristics and to the extent necessary for the use of the product in accordance with the agreement. We also have the right to make a reasonable number of backup copies, even without explicit agreement.
- 3.10. Software is subject to the BMTS supplementary terms and conditions of purchase for software (can be viewed in the download area of [www.bmts-technology.com](http://www.bmts-technology.com) )
- 3.11. The supplier is obliged to supply BMTS with contract products for use as spare parts on reasonable terms for a period of 15 years after completion of series delivery.

### 4. Force Majeure

- 4.1. Acts of God, operational disturbances without fault, unrest, governmental measures and other unavoidable events discharge us from our obligation to take punctual delivery for the duration of such event. During such events and for a two week period thereafter we are entitled – notwithstanding our other rights – to withdraw from the contract in whole or in part, provided that such events are not of inconsiderable duration and our requirements are considerably reduced as the goods have to be procured elsewhere as a result thereof.
- 4.2. The provisions set out in paragraph 4.1 will also apply in the case of labor disputes.

### 5. Advice of Dispatch and Invoice

The details in our orders and order releases shall apply. An invoice showing the invoice number and other allocation references is to be sent in one copy to the respective printed mailing address; the invoice must not be enclosed with the shipments.

### 6. Pricing and Passing of Risk

If not otherwise agreed, the prices are in accordance with FCA point of departure Incoterms 2010. The supplier shall bear the material risk until the goods are accepted by us or our agent at the place where the goods are to be delivered in accordance.

### 7. Payment Terms

Unless otherwise agreed, the invoice shall be paid within 90 days without any deduction (for supply from the People's Republic of China: 90 days without any deduction) from the due date of the payment and receipt of both the invoice and the goods or provision of services. Payment is subject to invoice verification.

### 8. Claims Based on Defects

- 8.1. An examination of the goods is conducted by us at incoming goods only to establish whether there is any obvious damage, in particular transport damage and discrepancies in terms of the identity or quantity of the delivery, except as otherwise agreed with you in a Quality Assurance Agreement. We will give notice of any defects found without undue delay after their discovery. To this extent the supplier waives the objection to delayed notification of defects.
- 8.2. The provisions of statute relating to defects as to quality and defects of title apply except insofar as otherwise provided hereinbelow.
- 8.3. In principle, we have the right to select the type of supplementary performance. The supplier may refuse the type of supplementary performance we selected if it is only possible at disproportionate expense.
- 8.4. In the event that the supplier does not commence rectifying the defect immediately after our request to remedy it, in urgent cases, especially to ward off acute danger or to prevent greater damage, we are entitled to undertake such rectification ourselves or to have it undertaken by a third party at the expense of the supplier.

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- 8.5. In case of defects of title, the supplier shall also hold us harmless from any third party claims possibly existing, unless the supplier is not accountable for the defect of title.
- 8.6. The limitation period for claims based on defects is 3 years – except in cases of fraudulent misrepresentation – unless the Product has been used in a building construction in accordance with its customary use and caused the defectiveness thereof. The limitation period commences when the Product is delivered (passing of risk).
- 8.7. If the supplier performs its obligation to effect supplementary performance by supplying a substitute product, the statute of limitations of the goods delivered in substitution shall start to run anew after delivery thereof unless, when effecting the supplementary performance, the supplier explicitly and appropriately made the reservation that the substitute delivery was effected purely as good will, to avoid disputes or in the interests of continuation of the delivery relationship.
- 8.8. Should we incur expenses as a result of the defective delivery of the Product, in particular transport, carriage, labor costs, costs of material or costs of incoming goods control exceeding the normal scope of the control, such costs shall be borne by the supplier.
- 8.9. The supplier is accountable for the fault of its sub-suppliers as it is for its own faults.

**9. Product Liability and Recall**

- 9.1. In the event a product liability claim is asserted against us, the supplier is obliged to hold us harmless from such claims if and to the extent the damage was caused by a defect in the Product supplied by the supplier. In cases of liability based on fault, this only applies, however, if the supplier is at fault. Insofar as the cause of the damage falls within the area of responsibility of the supplier, the supplier must prove that he is not at fault.
- 9.2. In the cases of paragraph 9.1 above, the supplier assumes all costs and expenses, including the costs of any legal action.
- 9.3. In all other respects the provisions of statute shall apply.
- 9.4. Prior to any recall action which is partially or wholly due to a defect in a Product supplied by the supplier, we shall notify the supplier, give the supplier the opportunity to collaborate and discuss with the supplier the efficient conduct of the recall action, unless no notification of or collaboration by the supplier is possible on account of the particular urgency. The costs of the recall action shall be borne by the supplier insofar as a recall action is due to a defect in a Product supplied by the supplier.

**10. Withdrawal and termination rights**

- 10.1. In addition to the statutory rights of rescission we have the right to withdraw from the contract, if there is or threatens to be a fundamental deterioration to the financial circumstances of the supplier and as a result of this the performance of a supply obligation to us is in jeopardy.
- 10.2. We are further entitled to withdraw from the contract if
  - the supplier meets the criteria of insolvency,
  - the supplier stops making payments,
  - the supplier meets the criteria of imminent insolvency according to § 18 InsO (German Insolvency Statute) or over-indebtedness of supplier becomes apparent,
  - if an application is filed by the supplier with respect to the assets or operation of the supplier for the opening of insolvency proceedings or of comparable debt settlement proceedings or
  - if the opening of insolvency proceedings with respect to the assets of the supplier is rejected due to lack of funds.
- 10.3. In the event of a contract for performance of a recurring obligation, paragraphs 10.1 and 10.2 shall apply by analogy provided that the right of withdrawal shall be substituted by an extraordinary right to terminate the contract without notice.
- 10.4. If the supplier rendered partial performance, then we are only entitled to withdraw from the entire contract if we have no interest in partial performance.
- 10.5. If we withdraw from or terminate the contract by virtue of the foregoing contractual rescission rights or respective termination rights, the supplier shall compensate us for the loss or damage incurred as a result, unless the supplier was not responsible for the rights arising to withdraw from or

terminate the contract.

- 10.6. Statutory rights and claims shall not be limited by the regulations included in this Section 10.

**11. Execution of work**

Persons who carry out work on our plant premises in fulfillment of the contract must comply with the respective plant regulations. Liability for accidents suffered by these persons on our plant premises is excluded, unless these accidents were caused by willful or gross negligent breach of duty by our legal representatives or persons employed in the performance of our obligations.

**12. Provision of Materials**

Materials, parts, containers and special packaging ("Resources") provided by us remain our property and may be used only for their intended purpose. The processing of materials and the assembly of parts is performed on our behalf. It is agreed that we are the joint owner of products manufactured using our materials and parts that are held by the supplier for us for this purpose, in accordance with the ratio of the value of the Resources to the value of the complete product. We reserve the right of joint ownership of products manufactured using our Resources up until complete fulfillment of our claims arising from the Resources. The supplier is entitled to sell products manufactured using our Resources, within the scope of its proper business operations and under reservation of proprietary rights. The supplier assigns to us the full amount of all receivables due to him from the resale of products, including ancillary rights. The assigned receivables serve as security for our claims arising from the order. The supplier is entitled to collect the assigned receivables. We may revoke the rights of the supplier under this paragraph 12 if the supplier fails to properly fulfill its obligations to us, defaults on payment, stops its payment or applies to initiate insolvency proceedings or a comparable procedure for the settlement of debt in relation to its assets. We can also revoke the rights of the supplier under this paragraph 12 in the event of a significant deterioration of the financial circumstances of the supplier or the risk of such a deterioration occurring, or in the event of the insolvency or over-indebtedness of the supplier. If the value of the security provided to us exceeds the value of our receivables by more than 10%, we will at the request of the supplier release collateral of our choosing to this amount.

**13. Documents and Confidentiality**

- 13.1. Supplier shall keep confidential with respect to third parties all business and technical information made available by us (including features ascertained, for example, from objects, documents or software, and other knowledge or experience) as long and to the extent that such information is not proven public knowledge, and it may only be made available to those persons in the supplier's business facility who necessarily need to be involved in the use thereof for the purpose of delivery to us and who are also committed to confidentiality; the information remains our exclusive property. Such information must not be duplicated or exploited commercially without our prior written consent, except for deliveries to us. At our request, all information that originating from us (if appropriate also including any copies or records made) and loaned items must be, without undue delay, returned to us in full or destroyed.
 

We reserve all rights to such information (including copyrights and the right to file for industrial property rights such as patents, utility models, semiconductor protection, etc.). If the information was made available to us by third parties, then this reservation of rights also applies for the benefit of these third parties.
- 13.2. Products manufactured on the basis of documentation drafted by us such as drawings, models and the like, or based on our confidential information, or manufactured with our tools or with tools modeled on our tools, must neither be used by the supplier itself nor offered or provided to third parties. This also applies to our print orders.
- 13.3. Information exchange to the supplier and sub-supplier. BMTS informed the supplier with the further applicable documents, for which country and region the legal- and governmental-requirements has to be applied and also the customer specific requirements from the original equipment manufacturer (OEM).

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The SUPPLIER agree, to identify and to hold all relevant information’s about the product-development-process and product–life-cycle legal- and governmental- requirements and the customer specific requirements. This requirements are send by the SUPPLIER to all his sub – suppliers in the supplier chain. The Supplier is responsible that all his sub – suppliers in the supplier chain hold the requirements.

**14. Export Control and Customs**

- 14.1. The supplier shall be obligated to inform us about any applicable (re-)export license requirements or restrictions for the Products under German, European or US export control law and customs regulations as well as the export control law and customs regulations of the country of origin of the Products in its business documents and to send the following information on Products subject to licence requirements to us in good time prior to the first delivery:
  - BMTS material number
  - Product description
  - All applicable export list numbers, including the Export Control Classification Number in accordance with the US Commerce Control List (ECCN)
  - Country of origin of the Products under commercial policy
  - Statistical goods number (HS code)
  - A person in its organization to resolve any queries.
- 14.2. The supplier shall be obligated to notify us without undue delay of any changes to the license requirements applying to the Products it supplied to us, as a result of technical changes, changes to the law or governmental determinations.

**15. Compliance, Social Responsibility and Environmental Protection**

- 15.1. The supplier undertakes, within its business relationship to us, not to offer or grant, to promote or accept any benefits, neither in the course of its business dealings nor in dealing with official bodies, which are in breach of applicable anti-corruption regulations.
- 15.2. The supplier undertakes, within its business relationship to us, not to enter into any agreements or concerted practices with other companies which have the aim or effect of preventing, restricting or distorting competition under applicable antitrust regulations.
- 15.3. The supplier guarantees to comply with applicable laws governing the general minimum wage and shall further commit sub-suppliers engaged by it to the same extent. On request, the supplier shall provide evidence of its compliance with the aforementioned guarantee. In the event of a breach of the aforementioned guarantee, the supplier shall hold us harmless from any claims of third parties and is obligated to reimburse any fines imposed upon us in this regard.
- 15.4. The supplier shall comply with the applicable legal regulations concerning treatment of employees, environmental protection, and occupational health and safety, and undertakes to work on reducing the negative impact of its activities on humans and the environment. In this respect, the supplier will, to the extent feasible, set up and develop a management system in accordance with ISO 14001. The supplier will also observe the principles of the UN Global Compact Initiative which primarily relate to the protection of international human rights, the abolition of forced labor and child labor, the elimination of discrimination in employment and occupation, and responsibility for the environment

(www.unglobalcompact.org).

- 15.5. In the event of suspicion of a breach of the obligations set out in paragraphs 15.1 to 15.4, the supplier must investigate potential violations without undue delay and notify us of the measures taken to investigate. If the suspicion is proven to be founded, the supplier must notify us within a reasonable period of time of the internal measures it has taken to prevent future violations. If the supplier fails to comply with these obligations within a reasonable period of time, we reserve the right to withdraw from contracts with the supplier or to terminate said contracts with immediate effect.
- 15.6. In the event of severe violations of the law by the supplier and in the event of violations of the provisions set out in paragraphs 15.1 to 15.4, we reserve the right to withdraw from existing contracts or to terminate said contracts without notice.

**16. Place of Performance**

- 16.1. The place of performance is the place to which the goods are to be delivered in accordance with the contract or where the service is to be rendered. The tax regulations of the respective place of performance is to be observed.

**17. Miscellaneous**

- 17.1. If one of the provisions of these Terms and Conditions and of additional agreements reached should be or become ineffective, this shall not affect the validity of the Terms and Conditions in other respects. The parties hereto are obliged to agree upon a provision to replace the ineffective provision that approximates as closely as possible the economic intent of the ineffective provision.
- 17.2. The contractual relationships shall be governed exclusively by German law excluding the conflict of law provisions and the UN Convention on Contracts for the International Sale of Goods (CISG).
- 17.3. The venue for all legal disputes arising either directly or indirectly out of contractual relationships based on these Terms and Conditions of Purchase shall be Stuttgart. The Local Court of Stuttgart (Amtsgericht Stuttgart, 70190 Stuttgart) has jurisdiction and venue over cases brought before the Local Court. We further have the right to take legal action against the supplier at a court with jurisdiction over the registered office or branch office of the supplier or at the court with jurisdiction over the place of performance at our discretion.

**Änderungs Historie**

Version	Datum	Bearbeiter	Beschreibung
V1.0	15.06.2008	Jan Zimmer	Ersterstellung
V1.1	19.12.2011	Maximilian Grimm	Ergänzung & Historie
V1.2	10.09.2016	Maximilian Grimm	Ergänzung
V1.3	03.05.2018	Maximilian Grimm	Ergänzungen & Name BMTS