

## General Terms & Conditions of Purchase

### I. General; scope of application

1. Our terms & condition of purchase shall apply with exclusive effect. We shall not recognise the supplier's differing or conflicting terms unless we have expressly consented, in writing, to their being applied. Such consent shall not be deemed given through acceptance of a supplier's offer that refers to its GT&C. Taking delivery of shipments – even without demur – shall not be deemed a substitute for the provision of written consent. These terms & conditions of purchase shall also apply to all future transactions with the customer, provided they are legal transactions of a related kind.

### II. Offer; offer documents, conclusion of contract

1. Offers to BMZ shall be free of charge. Express reference must be made to differences compared with our enquiry. Where applicable, relevant drawings must be attached.
2. We herewith reserve title and copyrights to illustrations, drawings, calculations and other documents, which must not be made accessible to third parties without our express consent in writing. They must be used exclusively for production purposes on the basis of our purchase order, after execution of which they must be returned to us without need of specific request. They must be kept confidential in respect of third parties. Reference is made in other respects to section IX.
3. Our purchase orders require written form. They shall be effective even without handwritten signature if there is a note to this effect on the order form. Except where agreed otherwise, our orders must be confirmed by the supplier in writing, stating the price and a binding delivery time, within 5 (five) days after receipt of order. The supplier must advise us of manifest errors (e.g. clerical and calculation errors) and omissions in the purchase order, including the order documents, so that the order can be corrected or completed before acceptance. If the order confirmation contains differences compared with the offer and/or our purchase order, the order confirmation shall not bring a contract into being. If there exists a long-term business relationship and the supplier wishes to decline the order, it (the supplier) must state this without delay, but within 5 (five) days at the latest, otherwise the order shall be deemed accepted. We reserve the right in other cases to cancel orders if they have not been confirmed in writing in due time.
4. BMZ shall have no liability for manifest errors, clerical or calculation errors in the purchase order.

### III. Prices, terms of payment and delivery; limitation period

1. The price shown in the purchase order shall be binding. Except where agreed otherwise in writing, the price shall include delivery and packing. Delivery shall be effected on DAP terms (Incoterms 2010) to the point of delivery specified by BMZ in each case. Except where expressly agreed otherwise, software licence fees shall be included in the price.
2. The return of packaging materials shall be subject to special agreement. If the supplier is obliged by packaging regulations to take back the packaging used, it (the supplier) shall bear the costs of return transport and reutilisation.
3. Except where agreed otherwise in writing, we shall, after receipt of the complete delivery, pay the purchase price

within 14 days, calculated as from delivery and receipt of invoice, less 3% cash discount, or net within 60 days.

4. If the invoice is received before the goods, the payment period shall commence as from the date of delivery.
5. Claims against us for payment shall become time-barred after one year.

### IV. Assignment, subcontractors, right to withhold payment, offsetting

1. The supplier shall not be entitled, without BMZ's prior written consent, which may only be refused for good cause, to assign its claims against us or to have same collected by third parties.
2. The supplier shall not be entitled, without the prior written consent of BMZ, to entrust the fulfilment of its contractual obligations, wholly or in part, to a subcontractor. If BMZ has consented to the award of contracts to subcontractors, copies of such contracts must, on request, be presented by the supplier, directly after their issuance, to the department responsible for the purchase and stated on BMZ's order, if and insofar as this is necessary for a check on the manufacture, the terms of the order, the goods to be delivered and/or the statutory or official requirements. This shall be without prejudice to the supplier's liability for the fulfilment of its contractual obligations by the subcontractor.
3. The supplier may only assert a right to offset and/or withhold payment on the basis of counter-claims which are undisputed or established at law.

### V. Delivery dates; due date, default, damages, transfer of risk

1. The supplier must render its service punctually at the contractually agreed delivery dates. Delivery dates are the dates of arrival at the point of delivery stipulated in each case.
2. If the time of performance is determined by a calendar date, the supplier shall be in default when the delivery date is passed. If the performance is not determined by calendar date and the service is not performed in due time, default shall commence not later than after 10 days. BMZ reserves the right to set shorter deadlines by way of reminders.
3. If the supplier is in default, it shall be obliged, on request by BMZ, to effect express delivery (express or accelerated freight, couriers, express package, air freight, etc.) at its own expense
4. If the supplier is in default, BMZ shall be entitled, after fruitless expiry of a reasonable extension, to withdraw from the contract and demand payment of damages. There shall be no need to allow an extension if a "fixed" delivery date has been agreed, that is, if BMZ has made it clear in the particular order that its interest in performance is dependent on punctual delivery, or if the supplier states that it cannot deliver within the extension deadline. The extension may be as short as 2 (two) working days in case of urgent need.
5. If the supplier is culpably in default, BMZ may – in addition to statutory claims of further extent – demand lump-sum compensation for the loss caused by the default in the amount of 0.5% of the net price per working day, but a total of not more than 5% of that part of the total net price which has fallen due up to the time the default starts. We reserve the right to provide evidence that we have suffered greater damage or loss. The supplier reserves the right to provide evidence that we have incurred no or much less damage or loss.

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6. If the supplier is in default, we shall be entitled to effect covering purchases, if and insofar as this is necessary in order to avert imminent consequential damage or loss due to the default. Any additional costs that may result therefrom shall be borne by the supplier. The supplier shall be obliged to meet the costs of all the damage or loss caused by its default, including any possible consequential damage or loss.
7. BMZ shall be entitled, instead of the actual consequential damage or loss resulting from covering purchases and/or non-delivery under subsection 6, to assert a lump-sum claim for damages in the amount of the order value of the particular goods in default of delivery. BMZ reserves the right to provide evidence of greater damage or loss. The supplier reserves the right to provide evidence of lower damage or loss.
8. BMZ shall not be obliged to accept a premature delivery or service which has been rendered without express prior consent.
9. The supplier shall be obliged to advise BMZ without delay, in writing, of any delays in delivery and the reasons therefor. Possible awareness by BMZ of the reasons for the delay shall not serve as a substitute for written advice by the supplier. The supplier shall be liable for all the damage or loss resulting from no or belated notification of BMZ. Notwithstanding the above, the supplier shall also be required to compensate BMZ for all the damage or loss arising from a delay in delivery for which it (the supplier) is responsible.
10. The risk of the goods shall only pass to BMZ at the point of receipt as of BMZ taking delivery or, in the case of installation or assembly of the delivered goods by the supplier, as of commissioning at BMZ.
11. Acceptance of a delayed shipment shall not be deemed to be a waiver of claims for damages.

### VI. Demands placed on delivered goods; documentation

1. The supplier shall be obliged to state the BMZ order number and BMZ article number accurately on all documents, transport documents and delivery notes. Separate documents shall be necessary for each purchase order. Any damage or loss resulting from non-compliance herewith shall be borne by the supplier.
2. The supplier shall be obliged to provide a written declaration of the origin of the goods under customs law. This declaration must be forwarded to BMZ without delay.
3. The article delivered must be made using the methods customary in the trade and in accordance with BMZ's written order, the pertinent DIN rules and the relevant European standards, as most recently amended.
4. The supplier shall undertake to ensure that the article delivered possesses the properties warranted, follows the recognised rules of technology at the particular time, has all the checking indicators and permits necessary for its use or operation and is free of defects which nullify or reduce its value or its performance capability for the intended use. If an EC conformity declaration with CE label, an EC manufacturer declaration or a certification is necessary for the manufacture or operation of the delivered article, e.g. a type examination (GS, tested safety), the supplier shall be obliged to provide us with the documentation on which such certificates are based, in German. The supplier shall bear all the costs associated with these permits.

### VII. Defects inspection; warranty; limitation period

1. The obligation to inspect shipments and report defects imposed by section 377 HGB (German Commercial Code) shall be excluded in respect of hidden defects if BMZ has carried out a minimum check for damage in transit based on the delivery note.
2. BMZ shall have fulfilled the obligation to report defects under section 377 HGB if notification of the defect is given within 2 weeks after its detection. Oral notification shall suffice.
3. If BMZ returns defective goods, it shall be entitled to charge back the invoice amount to the supplier, plus a one-off processing lump sum of €75.--. The right is reserved to provide evidence of higher expenses. The supplier reserves the right to provide evidence of lower or no expenses.
4. Replacements must be delivered without delay for defective deliveries, and defective services must be repeated without fault. BMZ shall be entitled, after provision of information and the expiry of a brief respite commensurate with the situation, to remedy the defects itself at the supplier's expense or to arrange for delivery of replacements in case of imminent danger or urgent need. This shall also apply if the supplier's deliveries or services are defective or delayed and BMZ has to take immediate action in order not to default on delivery itself.
5. The warranty period shall last 36 months as from the date of installation, of which we have to provide evidence. Our claims on grounds of defects reported by us during the warranty period shall become time-barred at the earliest 6 months after notification of defect was given.

### VIII. Product liability; release; liability insurance cover

1. The supplier shall also be responsible for ensuring that its products are free from defect within the meaning of the product liability act. The supplier shall indemnify and hold BMZ harmless in every respect against all claims which are based on the defective or faulty condition of the product delivered, unless the supplier provides evidence that it is not to blame.
2. If the supplier is responsible for a product defect, it shall be obliged to indemnify BMZ, on first request, against claims for damages by third parties provided that the cause is located in its sphere of organisation and control. The supplier's sources of supply shall be deemed to be working for the supplier within the meaning of section 278 BGB (German Civil Code).
3. In this context the supplier shall also be obliged, pursuant to sections 683 and 670 BGB to reimburse BMZ for any expenses which may arise from or in connection with a product recall that has been conducted by us. BMZ shall, without delay, advise the supplier – to the extent possible and reasonable – on the content and scope of a product recall that needs to be carried out and allow the supplier the opportunity to state its case. The supplier shall also be obliged to reimburse BMZ for the costs of the necessary legal action.
4. The supplier undertakes to maintain product liability insurance with a coverage amount of €5m per claim for injury to person or damage to property – as a lump sum – evidence of which must be given on request.
5. Claims for damages of further extent shall remain unaffected.

#### **IX. Intellectual property rights**

1. The supplier shall be responsible for ensuring that its services do not infringe third-party patents and other intellectual property rights. The supplier undertakes to indemnify BMZ against any possible claims by third parties on grounds of infringement of such rights and also to hold BMZ otherwise harmless. The supplier shall pay any licence fees that are due in connection with its services. The supplier shall be obliged to reimburse BMZ for the costs of any necessary legal action and defence against damage or loss.
2. If the supplier undertakes to deliver software, it must ensure that BMZ is granted the licences necessary for the use of the software. Except where agreed otherwise, the licence shall also be valid for the use of subsequent newer versions and for use on any number of computers used inside the BMZ company (central processing unit / peripheral equipment).

#### **X. Non-disclosure**

The supplier undertakes to keep all the documents made available to it, such as master copies, samples, models, drawings, etc., strictly confidential, not to make same accessible to third parties and not to exploit same itself.

#### **XI. Written form, severability clause**

1. Alterations or additions to this agreement must be in written form. This shall also apply to this requirement of written form.
1. Should individual parts of these terms and conditions be or become invalid, this shall not affect the validity of the remaining provisions. The invalid provisions shall be replaced by provisions which, on the basis of reasonable discretion, most closely convey what was commercially intended.

#### **XII. Court with jurisdiction; place of performance; governing law**

1. If the supplier is a registered trader, the Frankfurt Regional Court.
2. Except where stated otherwise in the purchase order, the place of performance shall be our place of business.
3. All relations between the supplier and BMZ shall be governed exclusively by German law. The provisions of the UN Convention on Contracts for the International Sale of Goods shall not be applicable.

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