

1. General

The following terms and conditions apply to all deliveries and services of BMS as well as orders and contracts, granted by BMS themselves. They also apply to all future business relations, even if they are not expressly agreed again. They apply only to entrepreneurs, legal persons under public law or public special funds within the meaning of Section 310 (1) BGB.

Any of the contracting party's conditions that deviate from our sales terms and delivery conditions will not be valid, even if we do not explicitly contradict them. Other agreements, alterations and collateral agreements require written confirmation.

The implication and integration of these general terms and conditions and the agreement and interpretation of legal business with BMS itself are subject only to the law of the Federal Republic of Germany.

2. Offers

Quotations and offers issued by BMS, which do not set a term of acceptance are not binding. If an order at BMS is placed, written confirmation of the acceptance of the order is needed to conclude the contract.

3. Scope of deliveries and services

The scope and type of supplies and services are specified in the order confirmation. Materials and services, which are not included therein shall be additionally charged. Design changes to the order confirmation can be made by us, as long as the goods fulfill the same functions and purpose. We are however not obliged to make such design changes even not to goods already delivered.

4. Prices

Prices of BMS are, unless otherwise agreed, without VAT, packaging, transport, insurance, assembly, installation and commissioning.

BMS shall reserve the right to make appropriate price adjustments if,

- the delivery period is extended due to any reasons BMS is not responsible for, or
- the nature or the scope of the agreed supplies or services has changed, or
- the material or the execution has undergone changes because any documents furnished by the customer were not in conformity with the actual circumstances or were incomplete.

Agreed prices shall not be binding for repeat orders. BMS reserves the right to change prices at any time.

5. Terms of payment

Unless anything else to the contrary has been agreed, the purchase price shall be due without any deductions within 14 days after the goods have been received.

In the event that the customer should be in default of payment, late payment interest in the amount of five percent above the base interest rate for consumers are charged. The enforcement of a higher claim for damages caused by delay remains reserved to BMS. The deduction of any discount is only permissible in the event of a special agreement in writing.

6. Reservation of title

BMS retains title to all goods up until full payment of all existing demands resulting from the delivery contract.

BMS is entitled to withdraw any goods if the customer acts contrary to the contract.

Taking back the goods does not constitute a withdrawal from the contract unless we have declared so expressly in writing. The purchaser is obligated to handle the object of purchase with care until ownership has transferred to the purchaser.

He agrees in particular to insure them adequately at his own cost at the original value against damage by fire, water and theft. If maintenance and inspection work have to be carried out, the purchaser must do this at its own expense.

Until such time as the property ownership has been transferred, the customer has to inform BMS immediately in writing if the delivered goods are impounded or exposed to other interventions of third parties. As far as the third party is not in a position to refund to us the judicial or extrajudicial expenses of our prosecution or defence, in particular an action as defined by section 771 of the Civil Procedure Code, customer shall be liable towards us for the loss resulting from this.

The processing or restructuring of the goods by the ordering party shall always be done for BMS. In this case, the expectancy of the purchaser with regard to the item for purchase or the altered item shall continue to apply. If the goods are processed with other objects not belonging to us, BMS shall acquire co-ownership of the new objects at the ratio of the value of the goods to the other processed objects at the time of processing.

7. Delivery period

The delivery period commences at the earliest with the acceptance of the order in accordance to section 2.

The delivery period does not commence unless an agreement has been reached on all technical details and the necessary duties of the customer and the requirements for the execution of the order have been fulfilled.

The foregoing particularly applies

- to belated or incorrect statements of the customer that are necessary for the execution of the order
- if agreed terms of payment are not met, letters of credit are opened too late, or the necessary import licenses are not received by the supplier in time
- if legal or factual obstacles arise which can not be averted by BMS in spite of due care, e.g. delayed or faulty delivery of raw materials, semi-finished or finished products, official acts or omissions by any state authorities or public bodies, occurrences of Acts of God, strikes, accidents, serious breakdowns in the factory, war, epidemics and natural catastrophes

In case of delay that BMS is responsible for yet caused in the first two weeks is no entitlement to damages caused by delay.

8. Passing of risk

If the goods are sent to the purchaser at the purchaser's request, the risk of accidental loss or accidental deterioration of the goods transfers to the purchaser upon dispatch to the purchaser, but no later than the point in time at which the respective goods leave the factory/warehouse. This applies regardless of whether shipment is made from the place of performance or regardless of who bears the freight costs.

9. Withdrawal

BMS is not required to deliver if the manufacturer has ceased production of the goods ordered, or if Acts of God occur, insofar as these circumstances only arose after the signing of the contract and the responsibility for non-delivery does not lie with BMS, and if BMS furthermore provides evidence that it has been attempted in vain to procure like products. The customer will be informed immediately about these circumstances.

A right of withdrawal is accorded to BMS if the customer has made false statements with regard to his creditworthiness and BMS's entitlement to performance thereby appears to be endangered.

The same applies if the contractual partner ceases payments due to objective insolvency or if petition has been made to commence bankruptcy or receivership proceedings against his assets.

In the event of withdrawal from the contract by the customer and/or returning of articles, BMS has the right to claim flat-rate compensation for incurring expenses including occurring costs for transport and assembly etc., as well as organization and administrative expenses to the amount of 30% of the net order price of the order, unless a greater effort can not be detected.

10. Warranty, liability

As a guarantee the customer can demand basically only finishing touches. BMS is entitled to carry out a spare delivery.

The customer may demand, at his discretion, a reduction of the purchase price or withdraw from the contract if rectification or replacement should have failed especially if not provided in reasonable time or refused to be fulfilled by BMS.

The warranty shall not cover damages like e.g. damages that are undetectably caused due to poor material, faulty construction or improper execution by BMS such as faulty or negligent maintenance, disregard of operating instructions, excessive use, unsuitable materials, chemical or electrolytic factors or any other cause beyond our control which BMS is not responsible for.

Warranty claims shall expire within 3 years after the delivery.

All warranty claims for obvious defects shall be excluded unless we are notified of their existence in writing within 2 weeks following delivery or acceptance.

BMS is only liable for intent or gross negligence.

The liability and compensation of BMS is limited to an amount of EUR 5 million per claim for personal damage and limited to an amount of EUR 0.25 million per claim for property damages.

Liability for warranted characteristics remains unaffected.

11. Testing, accepting and commissioning

The customer must check the delivery within 14 days of receipt and notify all defects to BMS in writing without delay. Otherwise the delivery is considered approved. The commissioning carried out by BMS except when otherwise stipulated is remunerated for each started day.

This applies as well if commissioning can not be fulfilled due to reasons caused by the customer and BMS is not informed on time. The duration of the commissioning is limited to 10 hours per day.

In case of a delay caused by BMS the amount of delay is to be deducted accordingly. The adequate costs for accommodation and meals due to delays which the customer is responsible for especially due to inadequate or missing preparatory work are to be paid additionally.

After commissioning the performance of BMS is deemed accepted.

12. Provided documents

Any documentation, e.g. calculations, drawings etc., in connection with any order shall remain our property and we reserve all ownership and copyright rights.

These documents may not be disclosed to third parties, unless we give the customer our express written consent.

13. Jurisdiction, applicable law and Severability clause

Place of jurisdiction in the case of disputes arising from the contractual relationship, if

action is to be raised at the court that is competent for the BMS head office. The latter does not apply if the customer is an entrepreneur according to § 310 para.1 BGB but no merchant according to §38 para. 1 ZPO.

The law of the Federal Republic of Germany shall apply.

The appliance of standard laws for the conclusion of international sales contracts for chattels (EKAG), standard laws for the international purchase of chattels (EKG) as well as the UN purchase right are excluded. The effectiveness of the remaining provisions shall not be affected by the possible ineffectiveness of one or more provisions.