

Terms and conditions of business

General Terms and Conditions of Buschfeld Design GmbH
Terms of sale and delivery relating to Buschfeld Design GmbH, Cologne
(hereinafter: Manufacturer) – as of 1st of January 2021.

I. General information

1. The general terms and conditions of business listed below (hereinafter Terms) apply exclusively. Other terms are only considered to be an integral part of the contract when the Manufacturer has expressly agreed to their validity in writing. In the course of transactions, the version of the terms and conditions of business prevailing on conclusion of the respective contract provide the basis for all future business.
2. All agreements made between the parties to the contract must be put down in writing. Purchase orders will only be dealt with when confirmed in writing. This also applies for purchase orders arranged through sales representatives and sales personnel. Confirmed orders deviating from originally agreed orders shall be treated as new offers. Any additions, amendments and sub-agreements made to orders already placed, or any agreements of promises of delivery made by the Manufacturer, only come into effect when confirmed in writing by the Manufacturer.

II. Offers and the documents inherent to offers

1. Offers are subject to change without notice, unless otherwise agreed.
2. Documents and data inherent to an offer, such as illustrations, drawings, weights and dimensions, are only approximately authoritative, unless expressly quoted as binding. Technical descriptions, explanations and specifications, as well as textual information describing how products work, do not constitute any legal warranties. Specific properties and qualities are only guaranteed when expressly confirmed in writing by the Manufacturer.
3. Deviations may occur in descriptive material and data provided in brochures, catalogues and other documents. Amendments may be made to the above as a result of technical progress. Such deviations or amendments do not afford anyone the right to hold claims against the Manufacturer.
4. The offer and any related documents may not be forwarded, published or copied, or used for any other than the agreed purpose without the permission of the supplier.
5. The Manufacturer may request all paperwork and documents related to an offer to be returned to sender.

III. Scale of the delivery – written confirmation

1. The confirmation of order contains the details of the scale of the delivery.
2. The Manufacturer is entitled to send partial shipments to the customer, and invoice for those partial shipments accordingly.
3. Samples shall only be shipped when expressly agreed with the Manufacturer. Such shipments shall also be invoiced.

IV. Prices

1. Unless otherwise agreed and recorded in the confirmation of order, all prices are quoted for shipment from the storage in Cologne, excluding postage and packing.
2. These prices are based on the manufacturing costs at conclusion of contract. In the case of long-term delivery arrangements, the Manufacturer is, however, entitled to request or demand prices be adjusted in the case of one or more of the following occur:
- costs for materials required for manufacture increase
- labour costs or incidental labour costs increase due to legal or pay scale adjustments
- there is an increase in value added tax (VAT).

Should no agreement be reached within the framework of negotiations on amendments to contractually agreed prices, each of the parties to the contract is entitled to terminate the contract within three months to the end of a quarter. Termination of contract must be made in writing.

V. Payment

1. Unless otherwise agreed, payments shall be made without any deductions and free of transaction charges to the Manufacturer's designated account(s). Terms are as follows: 2% cash discount within 14 days after date of invoice or net invoice amount within 30 days.
2. Invoices for repairs, mounting/installing, custom-made products, tools, development costs and models shall be paid immediately without any deductions. First-time deliveries are only affected against advance payment.
3. In the case of overdue payments, customary interest shall be calculated at 9 % (final customers 5%) above the basic interest rate quoted by the Deutsche Bundesbank; the Manufacturer reserves the right to make further claims.
4. Bills of exchange and cheques are only accepted for payment under specifically agreed conditions. Should a bill of exchange be accepted, discount charges are calculated to the amount of 4 % above the respective main financing rate as quoted by the ECB. Payment effected by means of bills of exchange or cheques is only considered settled when the invoiced amount has been credited to our account.
5. The Purchasing Party is only granted the right to set-off costs if there are legally recognized reasons for counterclaims or are undisputed; right to refuse performance may only be asserted under the condition that any justified counterclaims are based on the same, contractual relationship.

VI. Delivery times

1. The delivery times quoted by the Manufacturer are not binding and require all technical issues to be clarified in advance – unless otherwise agreed in writing. An agreed delivery time commences once the confirmation of order has been sent, but not before the Purchasing Party has fulfilled all obligations. This applies in particular in the case of agreed advance payments.
2. The delivery time is regarded as being adhered to when the article of sale

has left the Manufacturer's plant before the delivery time has elapsed.

3. The delivery time may be extended due to unforeseen circumstances, irrespective of whether these occur in the Manufacturer's plant or through one of his suppliers, e.g. the unforeseen disruption of operations, lawfully recognized strikes, lock-outs, the non-punctual delivery of specific parts despite a due and timely order, as well as any other occurrences which are outside the control of the Manufacturer. The Manufacturer is obliged to inform the Purchasing Party in writing of the onset and conclusion of any such occurrences at his earliest possible convenience.

4. Should the Manufacturer establish that he cannot affect punctual delivery and the Purchasing Party can prove that this has given rise to damages, the Manufacturer is liable to pay compensation: for every completed week of non-delivery, this amounts to 0.5 %, but no more than 15 % max. of the value of that part of the goods to be delivered which, as a result of the delay in delivery, cannot be used opportunely. The same applies if the Purchasing Party can prove he has lost custom, or business is to be settled within a given time period in accordance with § 376 of the German Civil Code, and this is not possible because of the delay. In any case, the liability for damages is limited to the kind of foreseeable, typical damages that may occur.

The Purchasing Party is only entitled to further claims should the delay be due to wilful intent or gross negligence.

5. Should the Purchasing Party set the Manufacturer an equitable period of grace while threatening to otherwise refuse acceptance of delivery, after the latter has failed to deliver on time, the Purchasing Party is entitled to withdraw from the contract should the period of grace elapse for reasons that can be proven to be the fault of the Manufacturer. The Purchasing Party is only entitled to claim for damages for the Manufacturer's failure to perform within the scope of the kind of foreseeable, typical damages that may occur in the case of not wilful intent or gross negligence.

VII. Transfer of risk – acceptance of delivery

1. The services performed by the Manufacturer shall be considered received by the Purchasing Party on completion of the delivery of the ordered goods. This also applies in the case of partial performance.
2. On acceptance of the delivery, the risk is transferred to the Purchasing Party. Should the Purchasing Party be in default concerning the acceptance of the delivery, the risk is transferred to him at the point when the default occurs. The same applies when provision of services is interrupted at the fault of the Purchasing Party and the Manufacturer has entrusted the Purchasing Party with the services / delivery performed to date by mutual agreement.
3. Shipment is effected at the risk of the Purchasing Party, even under freight paid conditions. The Manufacturer is only liable for damage during delivery, if shipment is expressly effected at the Manufacturer's risk. Goods can only be insured against breakage at the request and at the cost of the Purchasing Party. A possible credit note covering the damage can only be issued if the Manufacturer has confirmation of coverage from the insurance company. The Manufacturer is not expected to assume any other obligations. Unless expressly agreed otherwise, shipments are not insured.
4. The goods delivered by the Manufacturer shall also be accepted by the purchasing partner in the case of minor defects.
5. Should the Purchasing Party be found responsible for default of acceptance, or should he not fulfil his obligation to cooperate, he is obliged, as of two weeks after notice of the Manufacturer's readiness for shipment, to cover any costs incurred by the Manufacturer for the storage of goods ready for dispatch to the amount of 0.5 % of the invoice amount for every month, unless he can prove to the Manufacturer that the damage did not occur at all or was significantly lower than the flat rate.

The Manufacturer reserves the right to make other claims, especially those resulting from §§ 373ff of a bilateral commercial transactions in the German Commercial Code. If the Purchasing Party fails to take action within a reasonable time, the Manufacturer is entitled to stage a self-help sale.

VIII. Reservation of property rights

1. All items to be delivered remain the property of the Manufacturer (contractor) until the invoice for products/services provided has been settled by the Purchasing Party.
2. Pursuant to section 4, for the duration of the reservation of property rights the Purchasing Party is not entitled to liquidate, give away, pawn or transfer the delivered goods to secure a debt.
3. In the case of seizure or attachment by third parties of the goods in reserve, the Manufacturer must be informed immediately in writing so that he can take legal action as per § 771 in the Code of Civil Procedure. Should the third party not be in a position to reimburse the costs incurred in and out of court related to legal action as per § 771 in the Code of Civil Procedure, the Purchasing Party shall be liable for the resulting damages.
4. Should the purpose of the delivery be the re-sale of the goods from a company or point of sale operated by the Purchasing Party, the Purchasing Party is obligated to reserve property rights vis-à-vis customers when re-selling. The rights and claims related to this reservation of property are hereby ceded by the Purchasing Party to the Manufacturer who accepts them, irrespective of whether the delivery item(s) have been resold with or without possible further processing.
5. In the case of delayed payment of the Purchasing Party, the Manufacturer is entitled to take back all delivered items. The acceptance of returned goods does not signify withdrawal from contract, unless this has been explicitly clarified in writing. After seizure, the purchased items are at the disposal of the Manufacturer to utilize, sell or exploit as desired. Proceeds can be offset against accounts payable by the Purchasing Party – after deduction of costs incurred in the exploitation process.
6. The Purchasing Party is obligated to take care when handling the purchased items. In particular, he is obligated to insure them adequately at replacement value against damage from fire and water, and against theft. Should

maintenance and inspection work be necessary, the Purchasing Party is required to have this performed in good time at his own expense.

7. Should the purchased items be processed together with other items not belonging to the Manufacturer before full payment has been effected, the Manufacturer shall acquire joint ownership of the new item(s) in relation to the value of the purchased item(s) (final invoice amount, incl. VAT) to the other item(s) that have been processed at the point in time when processing is undertaken. The same applies for the goods/items resulting from processing as for the purchased item(s) delivered under reserve.

8. Should the purchased item(s) be inseparably mixed with other items not belonging to the Manufacturer before full payment has been effected, the Manufacturer shall acquire joint ownership of the new item(s) in relation to the value of the purchased item(s) (final invoice amount, incl. VAT) to the additional items at the point in time when all the items are put inseparably together.

9. The Purchasing Party shall also assign any claims to secure accounts receivable by the Manufacturer, which are created against a third party by the combination of the purchased goods with real estate.

10. When required by the Purchasing Party, the Manufacturer is obligated to release the collaterals to the extent by which the realisable value of the collateral exceeds the receivables by more than 10%; it rests with the Manufacturer to decide which collaterals are to be released.

IX. Liability

1. Claims relating to apparent defects are not recognized after delivery and acceptance of the goods.
2. The Purchasing Party is obligated to examine the accepted item(s) immediately for possible defects and, if a defect is found, to notify the manufacturer in written form without delay. If the customer fails to notify the Manufacturer, the goods are deemed to have been approved, unless there is a defect that could not be identified during the examination.
If such a defect appears later, the written notification must be made immediately after the discovery, otherwise the goods are considered to be approved even with regard to this defect.
3. Defects shall be communicated to the Manufacturer immediately in written form, whereby the Manufacturer is obligated to rectify the defect or replace the defect items or parts. The Manufacturer reserves the right to reduce the price if the repair fails or to withdraw from the contract at his choice.
4. If the goods are delivered to a place or town other than the place of business of the Manufacturer, the Purchasing Party shall bear all costs related to rectifying the defect or replacement of the defect items or parts.
5. Marginal deviations in dimensions and designs, especially in the case of repeat orders or subsequent requests for modification on the part of the Purchasing Party, which do not affect the usability of the products, shall be considered to be pursuant to the contract.
6. Any other claims for damages, contractual penalties or loss of profit shall remain unrecognized, unless they can be proven to be based on the deliberate or grossly negligent breach of contract on the part of the contractor or any one of his assistants or agents.
7. The above-mentioned liability limitations apply in the case of infringement of pre-contractual, contractual and post-contractual obligations, i.e. primary and secondary obligations, unless they conflict with any compulsory statutory provisions.

8. All claims against the Manufacturer, on whatever legal grounds, become invalid after a period of six months, unless they conflict with compulsory statutory provisions, Section 11 remains unaffected.
9. The Manufacturer is not liable for material damage to shipments procured from third parties and forwarded to the Purchasing Party unchanged. He is entitled to withdraw from the contract insofar as he has not received the delivery item(s) in spite of having previously concluded a general purchasing agreement; liability in the case of a deliberate or grossly negligent breach of contract remains unaffected. The Manufacturer shall inform the Purchasing Party immediately about non-punctual delivery of items and, should he wish to withdraw from the contract. Any consideration received shall be refunded forthwith.

10. No responsibility is accepted for damage resulting from inappropriate or improper application, faulty or defective installation or operation on the part of the Purchasing Party, or third parties working for or in the installation of the Purchasing Party or third parties, or resulting from normal wear and tear, defective or careless treatment, inappropriate operating resources, substitute materials, defective construction work, inappropriate support medium, or the effect of chemical, electrochemical or electrical substances or equipment, unless they can be proven to be the result of deliberate or gross negligent actions on the part of the Manufacturer. In the case of electric equipment: the regulations laid down by the association of German electrical engineers apply.

11. For new products supplied by the Manufacturer a statutory warranty period of two years applies. The warranty begins on the date the products are dispatched ex works in Cologne.
12. In the case of the data provided on the average lifespan of light sources, these are mean values. There is no guarantee that a light source will achieve at least this lifespan.

X. Rights of use, rights of third parties

1. On placing an order the Purchasing Party ensures that he personally, or his client, has the right of use for all image files and graphic material, and in particular photos, provided to the Manufacturer for processing or editing. The Purchasing Party is responsible for ensuring that authorising the Manufacturer to process the image files and graphic material provided complies with the applicable laws, in particular the laws governing copyright and trademarks, and does not infringe upon the rights of third parties.
2. The Purchasing Party shall indemnify the Manufacturer against all claims of third parties, which are filed against the Manufacturer due to the infringe-

ment of their rights in relation to the image files and graphic material used, in particular due to the infringement of copyright or trademark rights. The Purchasing Party also undertakes to pay the Manufacturer for any damages incurred.

3. In individual cases the Manufacturer reserves the right to subsequently refuse to accept orders which do not comply with legal stipulations or contradict accepted moral principles or standards.

4. Copyright and prohibition on exploitation
Contents and images contained on the Manufacturer's homepage are subject to German copyright law. Duplication, processing, distribution and any other form of utilisation requires the prior written consent of the Manufacturer. Downloads and copies of this homepage are not permitted. This applies in particular to all photos on the Manufacturer's homepage. To the best of the Manufacturer's knowledge, the rights of third parties were respected when creating the homepage. Should the Manufacturer be notified of any infringements in relation to the latter, the relevant contents will be removed from the Manufacturer's homepage immediately.

XI. Other liabilities

1. The warranty disclaimers listed in section VIII also apply for all other claims made by the Purchasing Party against the Manufacturer – irrespective of legal basis.
2. In all points listed above where the Manufacturer bears no, or limited, liability, this also applies in the case of claims lodged by the Purchasing Party against our staff / support staff / employees / agents / representatives.

XII. Place of Jurisdiction

1. The place of fulfilment for all obligations resulting from the contractual relationship is the business location of the contractor. Should a different place of fulfilment be agreed, the Purchasing Party is liable to cover all costs.
2. The contents of the contract and the relationship between the parties to the contract are exclusively subject to Federal German law. The application of the uniform law relating to the international purchase of moveable objects, as well as the law relating to the conclusion of international contracts of sale of moveable objects does not apply.

XIII. Assignment

All claims lodged against the Manufacturer are not transferrable without the written consent of the Manufacturer and may be exercised by the Purchasing Party only.

XIV. Severability clause

If any clause of part of this agreement shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgement shall be limited and confined in its operation to the clause involved in the controversy.