

# General Terms and Conditions of Sale and Delivery of BDT Media Automation GmbH, Rottweil, for use vis-à-vis entrepreneurs

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## 1. scope of application and exclusion of the applicability of GTC of the contractual partner

(1) All deliveries, services and offers of BDT Media Automation GmbH (hereinafter referred to as BDT) shall be made exclusively on the basis of these General Terms and Conditions of Sale and Delivery. They shall be an integral part of all contracts concluded by BDT with its contractual partners (hereinafter also referred to as "client") regarding the deliveries or services offered by BDT. They shall also apply to all future deliveries, services or offers to the client, even if they are not separately agreed upon again.

(2) Terms and conditions of the client or third parties shall not apply, even if BDT does not separately object to their validity in individual cases. Even if BDT refers to a letter which contains or refers to the terms and conditions of business of the client or a third party, this does not constitute an agreement with the validity of those terms and conditions of business.

## 2. conclusion of contract

(1) Offers made by BDT shall be subject to change, i.e. they shall constitute an invitation to submit an offer on the part of the client. This shall not apply insofar as offers of BDT are expressly marked as binding or include a binding acceptance period.

(2) The client shall be bound to its order for 4 weeks after receipt of the order by BDT, insofar as the client does not regularly also have to expect a later acceptance by BDT (§ 147 Para. 2 BGB). This shall also apply to subsequent orders placed by the client. A possible exceeding of the acceptance period shall be deemed to be cured if the client does not immediately object to a delayed order confirmation on the part of BDT.

(3) A contract shall only be concluded - also in current business transactions - if BDT confirms the order of the client in writing or in text form (i.e. also by fax or e-mail) by means of an order confirmation. In the case of delivery or performance within the binding period of time relevant to the offer in accordance with 2 (2), the order confirmation can be replaced by the actual performance of the service.

(4) Information provided by BDT on the object of the delivery or service (e.g. weights, dimensions, utility values, load capacity, tolerances and technical data) as well as representations of the same (e.g. drawings and illustrations) on the part of BDT are only approximately authoritative, unless the usability for the contractually intended purpose requires exact conformity. Such information or representations are not guaranteed quality features, but descriptions or identifications of the delivery or service. Deviations that are customary in the trade and deviations that occur due to legal

regulations or represent technical improvements as well as the replacement of components with equivalent parts are permissible insofar as they do not impair the usability for the contractually intended purpose.

(5) Insofar as parts are manufactured by BDT according to customer drawings, the drawings prepared by BDT and approved by the client shall be decisive. Deviations from approved drawings shall be specially agreed and any additional costs shall be remunerated.

(6) The contract concluded at least in text form, including these General Terms and Conditions of Delivery, shall be solely authoritative for the legal relationship between BDT and the client. This contract fully reflects all agreements between the contracting parties regarding the subject matter of the contract. Verbal promises made by the seller prior to the conclusion of this contract are not legally binding and verbal agreements between the contracting parties are replaced by the written contract, unless it is expressly stated in each case that they continue to apply in a binding manner.

## 3. property rights

(1) BDT reserves the property rights and copyrights to all illustrations, drawings, calculations, models, catalogs and other documents prepared by BDT or submitted to the client. This shall apply in particular to such written documents which are designated as "confidential". Without the express consent of BDT, which must be in writing, the client may not make these items accessible to third parties, either as such or in terms of content, disclose them, use them himself or through third parties, or reproduce them. Upon BDT's request, the client shall return these objects to BDT in their entirety and destroy any copies that may have been made if they are no longer required by the client in the ordinary course of business or if negotiations do not lead to the conclusion of a contract. The storage of electronically provided data for the purpose of usual data backup is excluded from this.

(2) If deliveries are made according to drawings or other specifications of the client and if industrial property rights of third parties are infringed by this, or if infringements of industrial property rights are asserted by a third party, the client shall indemnify BDT internally against all claims and shall pay compensation for all costs incurred by BDT, including the costs for the defense against such claims, even if these claims are asserted unjustly.

## 4. prices

(1) The prices shall apply to the scope of services and deliveries listed in the order confirmations. The prices quoted are ex FCA BDT warehouse.

Unless otherwise agreed, the price quoted shall generally be in Euro currency and net. The price does not include the costs of packaging, in particular not sea or air transport packaging, freight, postage and insurance costs, e.g. for transport insurance. In addition to the agreed net price, the Purchaser shall pay the value added tax (insofar as legally applicable) in the respective legally prescribed amount, plus any country-specific levies in the case of delivery to countries other than the Federal Republic of Germany, plus customs duties, other fees and public charges for the delivery/service.

(2) Any additional expenses incurred due to subsequent change requests of the client can be invoiced to the client by BDT.

(3) BDT shall be entitled to increase the remuneration unilaterally in the event of an increase in material manufacturing and/or material and/or product procurement costs, wage and ancillary wage costs, social security contributions as well as energy costs and costs due to environmental requirements and/or currency fluctuations and/or changes in customs duties and/or freight rates and/or public charges accordingly, if these directly or indirectly influence the goods manufacturing or procurement costs or costs of the contractually agreed services and if there are more than 4 months between the conclusion of the contract and delivery. An increase in the aforementioned sense shall be excluded insofar as the cost increase in individual or all of the aforementioned factors is offset by a cost reduction in other of the aforementioned factors in relation to the total cost burden for the delivery. If the new price is 20% or more higher than the original price due to the aforementioned right of price adjustment, the Purchaser shall be entitled to withdraw from contracts not yet fully performed. However, he may only assert this right immediately after notification of the increased price.

## 5. terms of payment

(1) Invoices shall be due for payment without deduction within 14 days of receipt of the invoice - receipt by e-mail or fax being sufficient. A cash discount shall only be deemed to have been agreed upon if expressly confirmed in writing by BDT. Receipt on the account of BDT shall be decisive for the timeliness of payment.

(2) In the event that the client is in default of payment of a claim, BDT shall be entitled to call due all other claims against the client.

(3) The client shall bear all fees, costs and expenses incurred by BDT or a third party to whom the claim has been assigned arising from and in connection with successful collection proceedings against the client outside the Federal Republic of Germany.

(4) BDT shall be entitled, even in the case of conflicting payment conditions of the client, to first offset a payment against the respective oldest, not titled debt. If costs or interest have already been incurred, BDT shall be entitled to set off payments first against the costs, then against the interest and finally against the main performance.

(5) The client shall only have the right to offset if and to the extent that its counterclaims have been legally established, are undisputed or have been acknowledged by BDT in writing or arise from the same order under which the delivery in question was made. Any right of retention of the Purchaser shall be limited to claims arising from the respective specific contractual relationship.

(6) BDT shall be entitled to demand default interest in the amount of 9% above the base interest rate in accordance with § 247 BGB (German Civil Code) after expiry of the period specified in 5 (1). The right to prove a higher damage caused by default is expressly reserved.

## 6. deliveries/delivery times/delay

(1) Unless otherwise agreed in writing or in text form, delivery and transfer of risk FCA shall take place in accordance with the provisions of the current Incoterms. The Purchaser shall be responsible for loading the goods onto the transport vehicle at its own expense. The risk of accidental loss or deterioration of the goods shall pass to the Purchaser after the goods have been loaded onto the transport vehicle. If a debt to be collected or a debt to be sent has been agreed in deviation from the above, the goods shall be transported at the risk and expense of the Purchaser. Costs for packaging shall be borne by the Purchaser and shall be invoiced separately. At the written request of the client and after confirmation by BDT, the consignment shall be insured by BDT against breakage, transport, fire and water damage at the expense of the client. BDT may demand a reasonable advance payment in the amount of the anticipated costs.

(2) Delivery periods and delivery dates shall only be deemed to have been agreed upon as binding if they have been expressly confirmed in writing in the order confirmation. BDT shall not be bound to the delivery date or the delivery period if the client does not meet his obligations (payment of instalments, provision of necessary documents, etc.) in due time. The objection of non-performance of the contract shall remain reserved.

(3) Delivery periods shall commence at the earliest on the day on which the contract has been concluded in text form or BDT has confirmed the order. The start of the delivery period shall be subject to the clarification of all technical questions.

(4) In the event of subsequent change requests by the client, BDT shall be released from compliance with the delivery date or the delivery period.

(5) The delivery period shall be deemed to have been complied with if the delivery item has left BDT's works or BDT has given notice of readiness for dispatch by the time of its expiry.

(6) If the shipment is delayed due to circumstances for which BDT is not responsible, the risk shall pass to the customer on the day of readiness for shipment.

(7) If BDT is in default of delivery, the client must first set BDT a reasonable grace period of at least 14 days for performance. This shall not apply if, due to the specific facts of the case, setting such a deadline would be unreasonably long. If, in exceptional cases, this deadline is unreasonably long, the client shall set a deadline appropriate to the individual case.

(8) If the client is in default of acceptance or violates other duties to cooperate, BDT shall be entitled to demand compensation for the damage incurred in this respect, including any additional expenses. BDT shall furthermore be entitled to set the client a reasonable acceptance period and, after the fruitless expiry of this period, to withdraw from the contract and to demand compensation for damages instead of performance.

(9) Transport packaging and all other packaging in accordance with the Packaging Ordinance shall not be taken back by BDT; with the exception of Euro pallets, provided that BDT agrees here. The client shall be obliged to arrange for the disposal of the packaging at its own expense.

## 7. acceptance / handover

(1) The client shall be obliged to accept the performance of BDT and, if acceptance is provided for according to the type of performance (e.g. contract for work and services/contract for work and materials), to declare acceptance.

(2) Unless otherwise agreed, the client shall be obliged to confirm the acceptance in writing or in the form specified by BDT. The confirmation shall be made upon handover of the performance by BDT to the client. In addition to the signing of an acceptance protocol, the signing of the service report is also considered as confirmation of acceptance.

(3) BDT may demand the partial acceptance of definable and economically independent partial services. In this case, the last partial acceptance shall be deemed to be the final acceptance. As soon as the contractual services or parts thereof have been completed, BDT shall submit the respective service report(s) and/or takeover/acceptance protocol to the client, unless otherwise communicated and confirmed by BDT.

(4) The Purchaser undertakes to declare acceptance immediately, but no later than 1 week after receipt of this document. Acceptance cannot be refused due to defects that only insignificantly affect the overall functionality.

Such deviations shall be noted in the acceptance protocol, if necessary, and shall be remedied by BDT within the scope of the warranty, if applicable. If, upon acceptance, the performance shows considerable deviations from the performance owed, the client may refuse acceptance and set BDT a reasonable period of time to make up for the contractual performance, after which a new acceptance shall take place.

(5) If acceptance is to take place, the performance shall be deemed to have been accepted, unless acceptance has been expressly declared, when

- the handover of the item has taken place and
- BDT has submitted the document referred to in 7. (2) to the client and 12 working days have passed since the delivery or
- the client has started to use the service of BDT (e.g. has put the delivered system into operation) and in this case 6 working days have passed since delivery and
- the client has failed to carry out the acceptance within this period (12 working days after delivery or 6 days after commissioning), unless there is a defect which makes BDT's performance impossible or significantly impairs it.

## 8. retention of title

(1) The goods delivered by BDT shall remain the property of BDT until all claims have been fulfilled (reserved goods) to which BDT is entitled against the client now or in the future, including all balance claims from current account. This reservation shall in each case also apply in favor of another company of the BDT Group within the meaning of these Terms and Conditions, i.e. a corresponding reservation shall apply as long as a claim of BDT Media Automation GmbH, BDT Prolog GmbH, BDT Storage GmbH or BDT Print GmbH exists. If the client acts in breach of the contract, in particular if he is in default with the payment of a claim for payment, even if it is against another company of the BDT group within the meaning of this agreement, -BDT shall have the right to withdraw from the contract after BDT has set a reasonable deadline for performance, unless the setting of a deadline is dispensable. BDT shall then be entitled to take back the goods. The transport costs incurred for taking back the goods shall be borne by the client. BDT shall be entitled to utilize goods subject to retention of title which have been taken back by BDT. The proceeds of the realization shall be offset against the amounts owed by the client to BDT after BDT has deducted a reasonable amount for the costs of the realization. Any credit balance shall be paid out to the client.

(2) The client shall be obliged to treat the delivered parts with care and to insure them at its own expense against any form of loss at replacement value for the duration of the retention of title. The client is obliged to provide BDT with proof of the corresponding insurance without delay upon request and to inform BDT without delay in the event that the insurance cover lapses. If there is no sufficient insurance cover or if the proof is not provided without delay, BDT shall be

entitled to insure the goods itself at the expense of the client and to charge the costs to the client. Claims against the insurance company arising from a case of damage affecting the goods subject to retention of title are herewith already assigned to BDT in the amount of the replacement value of the goods subject to retention of title. BDT accepts the assignment.

(3) Costs for maintenance and inspection work shall also be borne by the client during the retention of title, even if these are carried out by BDT.

(4) The client shall not be entitled to pledge the reserved goods or to assign them by way of security. In the event of seizures or other interventions by third parties, the client shall immediately inform BDT of the third party's ownership and notify BDT in writing so that BDT can file a third-party action. Insofar as the third party is not in a position to reimburse the judicial and extrajudicial costs of such an action, the client shall be liable to BDT for this.

(5) The client shall be entitled to resell the purchased goods in the ordinary course of business as long as he is not in default of payment; however, he already now assigns to BDT all claims in the amount of the final invoice amount (including value added tax) which accrue to him from the resale against his customers or third parties, irrespective of whether the purchased goods were resold without or after processing. Also assigned are claims of the Purchaser which arise for any other legal reason in relation to the goods against the Purchaser's customers or third parties. This shall include, in particular, claims arising from tort and insurance benefits. BDT accepts the assignment. The client shall be authorized to collect this claim in his own name on behalf of BDT, even after delivery, as long as BDT does not revoke this authorization. The authority of BDT to collect the claim itself shall remain unaffected. BDT undertakes, however, not to collect the claim as long as the client meets his payment obligations from the proceeds collected and he is not in default of payment and, in particular, an application for the opening of insolvency proceedings has not been filed or payments have not been suspended. In any case, the client shall be obligated, upon BDT's request, to immediately name the debtors (clients of the client).

(6) Any processing or transformation of the goods subject to retention of title by the client shall always be carried out for BDT. If the goods subject to retention of title are processed with other items that do not belong to BDT, BDT shall acquire co-ownership of the new item in proportion to the value of the goods subject to retention of title (final invoice amount including value added tax) to the other processed items at the time of processing. In all other respects, the same shall apply to the new item created by processing as to the goods subject to retention of title. If the goods subject to retention of title are inseparably combined or mixed with other items not belonging to BDT, BDT shall acquire co-ownership of the new item in proportion to the value of the goods subject to retention of title (final invoice amount including VAT) to the other combined or mixed items at the

time of combination or mixing. If the goods subject to retention of title are combined or mixed in such a way that the client's item is to be regarded as the main item, the parties agree already now that the client shall transfer co-ownership of this item to BDT on a pro rata basis. BDT accepts this transfer. The client shall keep the sole ownership or co-ownership of an object thus created for BDT.

(7) If the client so requests, BDT shall be obliged to release the securities to which BDT is entitled to the extent that their realizable value exceeds the value of the outstanding claims against the client by more than 10%. The choice of the security to be released shall, however, lie with BDT.

## 9. warranty

(1) The warranty period shall be one year from delivery or, if acceptance is required, from acceptance. This period shall not apply to claims for damages of the Purchaser arising from injury to life, body or health or from intentional or grossly negligent breaches of duty by the Seller or its vicarious agents, which shall in each case be time-barred in accordance with the statutory provisions.

(2) The delivered items shall be inspected carefully immediately after delivery to the Purchaser or to the third party designated by the Purchaser. In the event of a required acceptance, the goods shall be deemed to have been approved by the Purchaser with regard to obvious defects or other defects which would have been identifiable in the course of an immediate, careful inspection but which are not included in the acceptance protocol. This shall apply accordingly to an acceptance protocol or a document corresponding to an acceptance protocol. Otherwise, the goods shall be deemed to have been approved with regard to obvious defects or other defects which would have been recognizable in the course of an immediate, careful examination, if BDT does not receive a notice of defect at least in text form within 5 working days after delivery. With regard to other defects, the delivery items shall be deemed to have been approved by the client if the notice of defect is not received by BDT within 5 working days after the point in time at which the defect became apparent; if the defect was already apparent at an earlier point in time during normal use, this earlier point in time shall, however, be decisive for the commencement of the period for giving notice of defect.

(3) At the Seller's request, a delivery item which is the subject of a complaint shall be returned to the Seller carriage paid. In the event of a justified complaint, the Seller shall reimburse the costs of the most favorable shipping route; this shall not apply if the costs increase because the delivery item is located at a place other than the place of intended use. These (additional) costs shall be borne by the Purchaser.

(4) In the event of a defect, BDT shall have the right to choose between rectification and new delivery. In the event of failure, i.e. impossibility, unreasonableness, refusal or unreasonable delay of the rectification or replacement delivery,

the client may withdraw from the contract or reasonably reduce the purchase price. If a defect is due to the fault of BDT, the client may claim damages under the conditions specified in these conditions under the heading "Liability".

(5) BDT shall not be liable for damage caused by improper handling, wear and tear, storage, changes made independently or other actions of the client or third parties. The warranty shall not apply if the client modifies the delivery item or has it modified by third parties without the consent of BDT and the rectification of defects is thereby rendered impossible or unreasonably difficult. In any case, the client shall bear the additional costs of remedying the defect resulting from the modification.

(6) In the case of defects in components of other manufacturers which BDT cannot remedy for licensing or actual reasons, BDT shall, at its discretion, assert its warranty claims against the manufacturers and suppliers for the account of the client or assign them to the client. In the case of such defects, warranty claims against BDT shall only exist under the other conditions and in accordance with these General Terms and Conditions of Delivery if the legal enforcement of the aforementioned claims against the manufacturer and supplier has been unsuccessful or is futile, e.g. due to insolvency. During the duration of the legal dispute, the limitation of the relevant warranty claims of the client against BDT shall be suspended.

(7) The client's right of recourse against BDT on account of such claims arising from liability for material defects which are asserted against the client by its customers shall be excluded if the client has not complied with its obligation to examine the goods and to give notice of defects or if the goods have been modified by processing. This does not apply if the customer of the purchaser is a consumer.

(8) Any delivery of used items agreed with the Purchaser in individual cases shall be made to the exclusion of any warranty for material defects.

## 10. liability

(1) BDT's liability for damages, irrespective of the legal grounds, in particular due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of duties during contractual negotiations and tort, shall be limited in accordance with the following, insofar as fault is relevant in each case.

(2) BDT shall not be liable in the case of simple negligence on the part of its organs, legal representatives, employees or other vicarious agents, insofar as this does not involve a breach of essential contractual obligations. Material contractual obligations are the obligation to deliver in due time and - insofar as the installation of the delivery item is owed - its freedom from defects of title as well as such material defects that impair its functionality or usability more than insignificantly, as well as consulting, protection and care obligations that are intended to enable the client to use the de-

livery item in accordance with the contract or to protect the life and limb of the client's personnel or to protect the client's property from considerable damage.

(3) Insofar as BDT is liable for damages on the merits in accordance with the above paragraph 2 (10 (2)), this liability shall be limited to damages which BDT foresaw as a possible consequence of a breach of contract at the time of the conclusion of the contract or which the client should have foreseen by exercising due care. Indirect damages and consequential damages which are the consequence of defects of the delivery item shall furthermore only be compensable insofar as such damages are typically to be expected when using the delivery item as intended.

(4) In the event of liability for simple negligence, BDT's obligation to pay compensation for property damage and further financial losses resulting therefrom shall be limited to an amount of EUR 1,000,000 per case of damage, even if a breach of material contractual obligations is involved.

(5) The above exclusions and limitations of liability shall apply to the same extent in favor of BDT's executive bodies, legal representatives, employees and other vicarious agents.

(6) Insofar as BDT provides technical information or acts in an advisory capacity and this information or advice is not part of the contractually agreed scope of services owed by BDT, this shall be done free of charge and to the exclusion of any liability.

(7) The above limitations of liability shall not apply to BDT's liability for intentional conduct, for guaranteed characteristics, for injury to life, body or health or under the Product Liability Act.

#### **11. assignment of receivables**

(1) BDT shall be entitled to assign claims to a third party.

(2) All claims of the client against BDT arising from the contractual relationship are not assignable.

#### **12. use of products/processing**

(1) The Purchaser may only use the goods as intended and must ensure that these goods are only resold to persons familiar with the product hazards and risks.

(2) When using the goods as a basic material and partial product of its own products, the client shall be obliged to comply with its duty to warn when placing the final product on the market, also with regard to the goods delivered by BDT. In the internal relationship, the client shall indemnify BDT against the assertion of claims in the event of a breach of this obligation upon first request.

#### **13. force majeure**

In the event that BDT's performance of its obligations under the Agreement is

prevented by any force majeure directly or indirectly affecting any activities or the activities of any other person, firm or corporation associated with BDT in the sale, manufacture, supply, shipment, delivery or performance of the Services, including but not limited to by natural disasters, floods, typhoons, earthquakes, tidal waves, landslides, fires, epidemics, pandemics, quarantine, labor disputes, accidents, total or partial failure of machinery, equipment, transportation or loading equipment; governmental requirements, orders or regulations; unavailability of transportation or loading equipment; curtailment, shortage or failure of fuel supply, water supply, power supply, or of supply of other substances or raw materials including crude oil, petroleum or petroleum products; bankruptcy or insolvency of the manufacturer or supplier of goods or services by curtailment; substantial changes in the current international monetary system; or any other cause or circumstance beyond BDT's control, BDT shall not be liable for any loss or damage or failure or delay in performance by BDT under the Contract. In such event, BDT shall have the right, at its option, to cancel the Agreement to the extent so affected or to perform at a later date, deviating from the agreed delivery dates, which shall be reasonable in view of the circumstances of force majeure.

#### **14. miscellaneous**

(1) Place of performance for all contractual obligations is Rottweil (DE).

(2) If the Customer is a merchant, a legal entity under public law or a special fund under public law or if it has no general place of jurisdiction in the Federal Republic of Germany, the exclusive place of jurisdiction for all disputes shall be Rottweil (DE).

(3) For the sake of clarification, the jurisdiction provision of clauses 15 (1) and 15 (2) shall also apply to such facts between BDT and the client which may lead to non-contractual claims within the meaning of Regulation (EC) No. 864/2007. BDT shall, however, also be entitled to sue the client at its general place of jurisdiction.

(4) The law of the Federal Republic of Germany shall apply exclusively to all legal relationships between the client and BDT, in particular excluding the UN Convention on Contracts for the International Sale of Goods (CISG). It is expressly clarified that this choice of law is also to be understood as such in the sense of Art. 14 Para. 1 b of Regulation (EC) No. 864/2007 and shall thus also apply to non-contractual claims in the sense of this regulation.

(5) If foreign law is mandatorily applicable to a particular situation, these conditions shall be interpreted in such a way that the economic purpose pursued by them is preserved as far as possible.

(6) Insofar as individual provisions of the contractual relationship are invalid, this shall not affect the validity of the remaining provisions. The parties shall endeavor to replace the invalid provision with a valid provision that comes closest to the economic purpose of the contract.

(7) Insofar as trade clauses in accordance with the international commercial terms (Incoterms) have been agreed, the current Incoterms shall apply.

(8) All agreements, ancillary agreements, warranties and amendments to the contract shall require at least the text form, unless expressly stipulated otherwise. This shall also apply to the waiver of the form itself. The priority of the individual agreement in written, textual or oral form (§ 305 b BGB) remains unaffected.