

Conditions of sale, delivery and payment

The following conditions apply exclusively to current and future business transactions with us (henceforth referred to as B+K).

I.

1. All offers, agreements and deliveries are based exclusively on these conditions. Deviating conditions on the part of the purchaser, which are not expressly recognised in writing by B+K, are not binding for us, even if we do not expressly contradict them. Deliveries by B+K do not equate to recognition of the purchaser's conditions.
2. Offers from B+K are deemed without obligation and non-binding unless they are expressly identified as "binding" in writing.

II.

1. Prices: Our prices are quoted inclusive of normal packaging, freight-free station of destination. If shipping as express freight is desired, the additional costs must be borne by the purchaser. For deliveries with an invoiced amount of less than 1000.00 euro, shipping is carried out carriage forward at the expense of the purchaser.

Costs for manufacturing printing plates, artwork, printing documents and special tools will be invoiced separately. We reserve the right to increase our prices accordingly, if costs rise after the conclusion of a contract, especially due to tariff agreements or increases in material prices. These will be disclosed to the purchaser on request.

2. Shipping: Shipping is carried out at the purchaser's risk. The means of transportation shall be chosen at the discretion of B+K.

3. Delivery obligation: Lead times and delivery deadlines are only ever approximate unless they have been expressly designated as "binding" in writing. They refer to the point in time of departure and apply as of notification of readiness for delivery. All delivery transactions are subject to the correct and punctual supply of materials to B+K. Lead times only commence once all details of the order have been agreed upon. Should the purchaser require a change after the order has been confirmed, and this change is accepted by B+K, the lead time only commences on confirmation of this change. Lead times are extended, without prejudice to the rights of the seller arising from delay on the part of the purchaser, by the period of time during which the purchaser fails to meet its obligations to the seller arising from this contractual completion or other contractual completions.

This applies accordingly to delivery deadlines.

If an agreed delivery deadline is exceeded by us by more than two weeks, or the fulfilment of a due delivery obligation, for which a reminder has been submitted, is delayed for any other reason by more than two weeks, the purchaser is entitled to withdraw from the delivery contract in terms of the delivery whose delivery deadline we have failed to meet or on which we have defaulted once the purchaser has unsuccessfully specified a subsequent period of grace.

If the delivery date is exceeded due to reasons over which we have no control, the subsequent period of grace must be at least one month, and must also be appropriate in all other cases. We accept no liability for any other claims made by the purchaser arising from exceeded delivery deadlines, other delivery delays or the impossibility of delivery, whether or not we are responsible.

In the event that the purchaser defaults on payment or submits an application for insolvency proceedings and in the event that the purchaser's financial circumstances deteriorate significantly, we are entitled to make delivery conditional upon payment being received in advance.

4. Acceptance: In the case of call-off orders, goods notified as ready for shipping must be called off immediately. We are otherwise entitled, following the submission of a reminder, to ship them as we choose, at the expense and risk of the purchaser or to store and immediately invoice them at our discretion.

In the case of contractual completions involving continuous delivery, call-offs and batch subdivision for approximately identical monthly quantities must be submitted to us; we are otherwise entitled to stipulate these at our reasonable discretion. Unless deadlines are agreed in the case of call-off orders, the entire quantity must have been called-off and accepted six months following completion of the contract at the latest.

5. Information and advice: Information concerning processing and usage options for the goods delivered by us, technical advice and other information are provided to the best of our knowledge, but are non-binding and exclude any liability whatsoever.

In particular, our verbal or written, technical advice concerning usage does not exempt the purchaser from its own responsibility to check the delivered goods as regards their suitability for the intended processes or purposes.

This liability exclusion does not apply insofar as the information has been issued within the framework of a special consultancy contract, which has been expressly designated as such.

6. The ordering party is only entitled to rights of retention and offsetting if its counter-claims have been finally and conclusively ascertained, are undisputed or are recognised by us.

7. If the purchaser provides printing documents or instructs a third party to do so, B+K is only obliged to check the provided printing documents for identity, sufficiency and obvious defects. A check for hidden defects e.g. errors of the author, screen angles, screen rulings etc. will not be effected. Should the provided printing documents have hidden defects then B+K will have the right to pass on to the purchaser all costs thereby incurred.

III. General limitation of liability

1. We only bear liability – including for our senior managers and other vicarious agents - in cases of intent and gross negligence, limited to the typical contractual damages foreseeable on completion of the contract, due to violation of contractual and non-contractual duties, particularly due to impossibility, default, negligence during contractual negotiations and tortious acts.

2. These limitations do not apply in the event of culpable violation of significant contractual duties, insofar as the achievement of the contractual purpose is placed at risk, in cases of compulsory liability according to the German Product Liability Act, in the event of loss of life, physical injury and damage to health, or if we have fraudulently concealed material defects or have guaranteed the absence of these. The regulations regarding the burden of proof remain unaffected by this.

3. Unless otherwise agreed, the purchaser's contractual rights, from which the purchaser asserts claims against us on or in connection with the delivery of goods, fall under the statutes of limitation one year following delivery of the goods. This period of time also applies to such goods which, according to their usual manner of usage, are used for a construction and have caused this to be defective. Our liability due to intentional and grossly negligent violation of duties and the expiry of legal claims under a right of recourse, insofar as these exist, remain unaffected by this. The statutory period does not begin again with the new delivery/amendment.

IV. Technical delivery conditions

Our special, technical delivery conditions, which are enclosed as an attachment, additionally apply.

V. Retention of title

The goods supplied remain our property until the purchaser has fulfilled all payment obligations to us. The purchaser is entitled to use or sell the goods in the normal course of business, provided that it meets all of its obligations arising from this contract or from other contracts within the stipulated periods of time.

Our property is also extended to the new products created by processing the reserved goods, which are accordingly produced for us, as the manufacturer, by the purchaser in the spirit of § 950 BGB (German Civil Code). On processing, combination or mixing with articles which we do not own, we acquire joint ownership via either the direct or corresponding application of § 947 BGB. If our property should be absorbed completely via this processing, combination or mixing in the reserved goods, the purchaser herewith transfers to us all of the articles arising from processing, combination or mixing as security for all of our rights as designated in paragraph 1. The articles which are our property shall be looked after for us by the purchaser without the purchaser's accruing rights against us from this processing, combining or mixing or from storage.

The purchaser transfers to us all receivables arising from the sale of the reserved goods including all articles which are our property in accordance with paragraph 2, together with all subsidiary and security rights, including bills of exchange and cheques, as security for all of our rights designated in paragraph 1. In the event that goods, in which we have joint ownership in accordance with paragraph 2, are sold, this transfer is limited to the percentage of the receivable which corresponds to the percentage of our ownership. If reserved goods are sold together with other articles at a total price, this transfer is limited to the percentage of the amount in our invoice, including sales tax for the reserved goods which have been sold. In the event of processing within the framework of a contract of manufacture, the percentage of the compensation for work receivable is herewith transferred to us according to the amount disclosed in our invoice, including sales tax for the reserved goods.

The purchaser is authorised, as long as it fulfils its duties towards us properly and we have not withdrawn the authorisation, to dispose of the goods which are our property during the ordinary course of business and to collect the receivables transferred to us. The purchaser must immediately inform us of any impediment to our rights in respect of goods which are our property or to the receivables transferred to us. If the purchaser defaults on a payment to us or violates one of the duties arising from the agreed retention of title, all of our rights designated in paragraph 1 become due immediately. In these cases, and if the assertion of our rights appears to be at risk due to other reasons, the purchaser must inform us, on request, of the continuance of the reserved goods, including all articles which are our property in accordance with paragraph 2, as well as the customers to whom it has sold the reserved goods or the articles which are our property in accordance with paragraph 2, and must enable us, to the exclusion of all rights to the retention of goods, to take possession, particularly to take back, the reserved goods or articles which are our property in accordance with paragraph 2, to notify its customers of the transfer of the receivable to which we are entitled and to provide us with all necessary information and documents. Taking back the reserved goods only equates to withdrawal from the contract on our part if we expressly declare this in writing.

If, subject to the above conditions, we exercise our proprietary rights by taking back the reserved goods, we are entitled to sell the goods on the open market or to have them put up for auction. The reserved goods are taken back at the proceeds realised, but at the agreed delivery prices at most. More far-reaching rights to compensation for damages, particularly damages for loss of profit, are reserved.

If the value of our existing securities exceeds the value of the receivables to be secured by more than 20%, we shall, at the request of the purchaser, release the excess securities at our discretion.

VI. Place of fulfilment, place of jurisdiction, international sale of goods, miscellaneous

1. On delivery ex-works, the place of fulfilment is the delivery plant; in the case of other deliveries, the place of fulfilment is our warehouse. At our discretion, the place of jurisdiction is the location of our head offices or the location of the purchaser.

2. In addition to these conditions, German, non-harmonised, material law applies to all legal relationships between us and the purchaser. Insofar as the purchaser's offices are located abroad, the conditions of UN purchasing law (CISG) apply unless otherwise arising from these conditions. The purchaser of consumer goods in accordance with § 475 BGB is additionally obliged not to rule out the validity of the CISG in the event that the goods are sold on abroad.

B+K accepts no liability for the suitability of the goods which are supplied for purposes other than those expressly agreed in writing.

In the event that our specific performance does not meet with our contractual obligations, the purchaser is obliged, prior to rescinding the contract and asserting claims for damages, to specify an appropriate, subsequent period of grace to meet the contractual obligations. This does not apply if circumstances make it impossible or unreasonable for the purchaser to guarantee a subsequent period of grace.

The assertion of claims for damages against the seller is generally dependent on the culpability of the seller or its employees. Price reduction according to § 50 CISG is limited to the lower value of the goods which are in violation of the contract. The liability limitations and exemptions specified for B+K in these conditions also apply to all employees.

Any alteration to or revocation of the contract, and the assertion of all of the purchaser's rights, must be carried out in writing, in which case transmission by e-mail or telefax is sufficient; the declarations must be submitted to B+K.

3. If a purchaser which is located outside of the Federal Republic of Germany, or its commissioner, collects goods or transports or ships them abroad, the purchaser must provide us with the proof of export required under tax law. If this proof is not provided, the purchaser must pay the sales tax applicable to deliveries within the Federal Republic of Germany on the invoiced amount.

4. In the event of deliveries from the Federal Republic of Germany to other EU member states, the purchaser must inform us, prior to delivery, of the sales tax identification number under which it carries out purchase taxation within the EU. Otherwise, the purchaser must pay the amount of sales tax legally owed by us in addition to the agreed purchase price for our deliveries.

5. On settlement of deliveries from the Federal Republic of Germany to other EU member states, the sales tax regulations in the relevant recipient member state are applicable if either the purchaser is registered in another EU member state for sales tax purposes or if we are registered in the recipient member state for sales tax purposes.

VII. Salvatory clause

Should any of the above conditions be invalid, this does not affect the validity of the remaining conditions.

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Bischof + Klein SE & Co. KG