

General Terms and Conditions (GTC) of Bitmotec GmbH

§ 1 Scope

- (1.) The following terms and conditions apply to all offers, products, and contracts with entrepreneurs within the scope of current business relations with us.
- (2.) All agreements made between us and the customer for the purpose of executing this contract are set out in writing in this contract.
- (3.) Our terms and conditions of sale shall only apply to companies in the sense of § 14 of the German Civil Code (German abbreviation BGB).
- (4.) Even if known, neither non-conforming agreements and subsidiary agreements nor conflicting or supplementary general terms and conditions of business shall become part of the contract, unless their validity is expressly agreed. The following terms and conditions shall also apply,
If we deliver to the customer without attaching reservations even after obtaining knowledge of the customer's own conflicting or non-conforming conditions.
- (5.) If a framework agreement or other contracts have been concluded with the customer with regard to the delivery of products, these take precedence. They shall be supplemented by these General Terms and Conditions of Delivery, unless more specific provisions are contained therein.
- (6.) Partial deliveries are permitted, provided they impose no unreasonable burdens on the customer.

§ 2 Conclusion of contract

- (1.) Our offers are subject to change without notice. We reserve the right to make technical and other changes within the scope of reasonableness.
- (2.) If the order is to be deemed an offer according to § 145 BGB, we can accept this within 2 weeks.
- (3.) We reserve the right of ownership and copyright to illustrations, drawings, calculations, and other documents. This also applies to written documents which are designated "confidential". The customer must obtain our express written consent before passing them on to third parties.
- (4.) The services to be provided are described in the written order or in a letter of confirmation.

§ 3 Rights to use data

- (1.) The owner of the data, and therefore the person authorized to dispose of the data, is exclusively the person who generated the data.
- (2.) The customer is obliged to transmit the necessary data which we require for the fulfilment of an individual contract and to grant us an irrevocable, simple right of use for the duration of the individual contract which is unrestricted in terms of location.
- (3.) The right of use of data transmitted by the customer includes, in particular, receipt, storage, organization, adaptation or modification, readout, and use, as well as combination or linking with other data. During the term of the individual contract, we are entitled to pass on the data to affiliated companies or third parties and to grant them the corresponding rights of use.
- (4.) The customer is obliged to transmit the data to us accurately, free of charge, complete, and not subject to rights of third parties. We are not obliged to check the data. There is no obligation to return data transmitted by the customer.

§ 4 Remuneration and payment method

- (1.) Unless otherwise stated in the order confirmation, our prices are "ex works", excluding packaging, which will be invoiced separately.
- (2.) Statutory value-added tax is not included in our prices; it is shown separately on the invoice at the statutory rate on the day of invoicing.
- (3.) The application of a discount requires special written agreement.
- (4.) If we have assumed responsibility for installation or assembly and unless otherwise agreed, the customer shall bear, in addition to the agreed remuneration, all necessary incidental costs, such as travel expenses, costs for the transport of tools and personal luggage as well as allowances.
- (5.) Unless otherwise stated in the order confirmation, the purchase price is due for payment net (without deduction) within 30 days of the invoice date. Legal provisions concerning the consequences of default of payment shall apply.
- (6.) We are entitled to submit individual components of an order (sub-projects or work packages) to the customer for partial acceptance. The customer is obligated to partial acceptance if these components are in accordance with the contract. The customer must then pay the remuneration relating to this partial contract fulfillment after separate partial invoicing.
- (7.) The customer has a right to offset only if his counterclaims have been acknowledged by us or legally established.
- (8.) The customer has a right of retention only if his counterclaim is based on the same contractual relationship.
- (9.) A right to refuse performance by the customer is excluded in any case.
- (10.) We are entitled to charge interest from the due date at a rate of 9% above the base rate applicable at the time plus any commission and costs. The interest shall be set at a higher rate if we can prove that a higher interest rate was charged.

§ 5 Delivery time

- (1.) The beginning of the delivery time stated by us is subject to the prior clarification of all technical questions.
- (2.) Compliance with our delivery obligation further requires the timely and proper fulfilment of the customer's obligations. We reserve the right to the defense of non-performance under the contract.
- (3.) If the customer is in default of acceptance or culpably violates other obligations to cooperate, we shall be entitled to demand compensation for any damages incurred, including any additional expenses. We reserve the right to assert further claims.
- (4.) Insofar as the conditions of paragraph (3) are met, the risk of accidental loss or deterioration of the purchased item shall pass to the customer at the point in time at which the customer is in default of acceptance or of payment.
- (5.) We shall be liable in accordance with relevant statutory provisions insofar as the underlying purchase contract is a fixed-date transaction within the meaning of § 286 para. 2 no. 4 BGB or § 376 of the German Commercial Code (German abbreviation HGB). We shall also be liable in accordance with relevant statutory provisions if, as a consequence of a delay in delivery for which we are responsible, the customer is entitled to claim that his interest in the further performance of the contract has ceased to exist.

- (6.) We shall also be liable in accordance with relevant statutory provisions if the delay in delivery is due to an intentional or grossly negligent breach of contract for which we are responsible; any fault on the part of our representatives or agents is attributable to us. If the delay in delivery is not due to an intentional breach of contract for which we are responsible, liability for damages shall be limited to foreseeable, typically occurring damage.
- (7.) We shall also be liable in accordance with relevant statutory provisions insofar as the delay in delivery for which we are responsible is based on the culpable breach of a material contractual obligation; in this case, however, liability for damages shall be limited to foreseeable, typically occurring damages.
- (8.) Further legal claims and rights of the customer remain reserved.

§ 6 Transfer of risk – packaging costs – installation and assembly – acceptance

- (1.) Unless otherwise stated in the order confirmation, delivery "ex works" is agreed.
- (2.) If delivery with installation or assembly has been agreed, the risk shall pass on the day of acceptance into the customer's own business or, if agreed, after an acceptable trial run.
- (3.) Separate agreements apply to the return of packaging.
- (4.) If we demand acceptance of the delivery after completion, the customer must carry it out within two weeks. If this does not happen, acceptance shall be deemed to have taken place. Acceptance shall also be deemed to have taken place when the delivered item is used – after completion of an agreed test phase, if applicable.
- (5.) If the customer so wishes, we will protect the delivery with transport insurance; the costs incurred in this respect shall be borne by the customer.

§ 7 Liability for defects

- (1.) Warranty claims of the customer presuppose that the customer has duly fulfilled his obligations to examine the goods and make a complaint in accordance with § 377 HGB.
- (2.) In the case of defective deliveries/services, the customer is entitled to choose between subsequent performance in the form of rectification of the defect or delivery of a new defect-free item. We shall be entitled to this right to subsequent performance at least twice for each warranty claim. In the case of rectification of defects, we are obliged to bear all expenses necessary for the purpose of rectifying the defect, in particular transport, travel, labor and material costs, provided that these are not increased by the fact that the object of sale was taken to a place other than the place of performance. Self-help by the customer is excluded, unless we agree to it in writing.
- (3.) If the subsequent performance fails, the customer is entitled, at its discretion, to demand rescission or reduction of the purchase price.
- (4.) We shall be liable in accordance with relevant statutory provisions if the customer asserts claims for damages based on intent or gross negligence, including intent or gross negligence on the part of our representatives or vicarious agents. Insofar as we are not accused of intentional breach of contract, the liability for damages is limited to foreseeable, typically occurring damages.
- (5.) We shall be liable in accordance with relevant statutory provisions insofar as we culpably violate an essential contractual obligation; in this case, however, the liability for damages shall be limited to foreseeable, typically occurring damages.
- (6.) Liability for culpable injury to life, body or health remains unaffected; this also applies to mandatory liability under the Product Liability Act. An essential contractual obligation exists if the breach of duty refers to an obligation on the fulfillment of which the customer has relied and was entitled to rely.

- (7.) We shall not be liable for further or consequential damages or for such damages that do not affect the object under development, unless we can be accused of intentional or grossly negligent conduct.
- (8.) Excluded from the warranty are normal wearing parts as well as parts that are subject to operational wear and tear.
- (9.) A warranty violation does not exist if defects that have occurred are based on unclear job descriptions or incorrect or insufficient information from the customer. If the inspection pursuant to a notice of defect reveals that no warranty violation exists, the expenses for the analysis will be charged to the customer.
- (10.) Unless otherwise regulated above, liability is excluded.
- (11.) The limitation period for claims for defects is 12 months, calculated from the transfer of risk.
- (12.) The period of limitation in the case of a delivery recourse according to §§ 478, 479 BGB remains unaffected; it is five years, calculated from delivery of the defective item.
- (13.) In the event of default of payment or expiry of credit, we are permitted to refuse the warranty.

§ 8 Joint and several liability

- (1.) We shall only be liable in case of intent and gross negligence. Any liability for indirect and/or consequential damages, in particular due to loss of profit or loss of production, is expressly excluded.
- (2.) If claims are made against us, our employees or vicarious agents by third parties under tort or product liability law – on whatever basis – the customer must indemnify us or compensate us for such claims for damages at first request; this does not apply in the case of intentional or grossly negligent actions by us or our employees or agents.
- (3.) Any further liability for damages other than that provided for in "§ 7 Liability for defects" is excluded, irrespective of the legal nature of the claim asserted. This applies in particular to claims for damages arising from culpa in contrahendo, other breaches of duty, or tortious claims for compensation for property damage in accordance with § 823 BGB.
- (4.) The limitation according to paragraph (1) shall also apply if the customer demands compensation for useless expenses instead of claiming compensation for the damage.
- (5.) Insofar as liability for damages against us is excluded or limited, this also applies with regard to personal liability for damages for our employees, workers, staff, representatives, and vicarious agents.

§ 9 Project Implementation

- (1.) All work shall be performed in close cooperation with the customer. We and the customer will appoint a project manager for the implementation of the project. Each manager will be the responsible contact person for all aspects of the project, and can make and receive binding declarations on behalf of his party. The project managers shall ensure in mutual consultation that the progress of work will not be impaired by a lack of information exchange.
- (2.) The processing and delivery periods stated by us shall commence with the respective receipt of the order, but not before receipt of any agreed advance payments or before the customer has fulfilled any conditions to be met by him, such as the provision of documents etc.
- (3.) We will take into account any changes deemed necessary by the customer as far as possible. However, there is no entitlement to this consideration. If this consideration should endanger the achievement of the intended objective or lead to the planned personnel expenditure or schedule being exceeded, we shall inform the customer of this immediately after recognizing these circumstances. A change to the order is only binding after a supplementary written agreement has been reached between the contracting parties regarding the change and the remuneration of any additional expenses.

- (4.) The customer shall ensure that – even without his special request – all documents necessary for the execution of the order are submitted to us in good time and that we are informed of all circumstances which are of importance for the execution of the order.
- (5.) If it is necessary to carry out project work on the customer's premises, the customer will provide appropriate work facilities. The customer shall ensure that our employees and any suppliers and subcontractors have unrestricted access to these premises. The house rules must be observed.

§ 10 Project Result

The project result shall be made available to the customer after completion of the project in accordance with the offer in a step-by-step fashion against payment of the agreed project compensation. We reserve a non-exclusive, free right of use for our own purposes.

§ 11 Retention of title

- (1) We reserve the right of ownership of the purchased item until receipt of all payments arising from the delivery contract. If the customer acts in breach of contract, in particular in the event of default in payment, we shall be entitled to take back the purchased item. Our taking back the purchased item shall constitute a withdrawal from the contract. After taking back the purchased item, we shall be entitled to sell it; the proceeds of sale shall be set off against the customer's liabilities – less reasonable costs of sale.
- (2) The customer is obliged to handle the purchased item with care; in particular, he is obliged to insure it sufficiently at his own expense against fire, water, and theft damage at replacement value. If maintenance and inspection work is required, the customer must carry this out in good time at his own expense.
- (3) In the event of seizure or other interventions by third parties, the customer must inform us immediately in writing so that we can take legal action in accordance with § 771 of the German Civil Procedure Code (ZPO). Insofar as the third party is not in a position to reimburse us for the court and out-of-court costs of an action pursuant to § 771 ZPO, the customer shall be liable for the loss incurred by us.
- (4) The customer shall be entitled to resell the purchased item in the ordinary course of business; however, he hereby already assigns to us all claims in the amount of the final invoice amount (including VAT) of our claim which accrue to him from the resale against his customers or third parties, irrespective of whether the purchased item has been resold without or after processing. The customer remains authorized to collect this claim even after the assignment. Our authority to collect the claim ourselves remains unaffected by this. We undertake, however, not to collect the claim as long as the customer meets his payment obligations from the proceeds received, does not fall into arrears and, in particular, no application for the opening of settlement or insolvency proceedings has been made or payments have been suspended. However, if this is the case, we may demand that the customer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents, and informs the debtors (third parties) of the assignment.
- (5) The processing or alteration of the purchased item by the customer is always carried out for us. If the purchased item is processed with other objects not belonging to us, we shall acquire co-ownership of the new object in the ratio of the value of the object of sale (final invoice amount, including VAT) to the other processed objects at the time of processing. The same shall apply to the object which results from the further processing as to the purchased item delivered under reservation of title.

- (6) If the purchased item is indissolubly combined with other objects not belonging to us, we shall acquire co-ownership of the new object in the ratio of the value of the object of sale (final invoice amount, including VAT) to the other combined objects at the time of combination. If the combination is carried out in such a way that the customer's item is to be regarded as the main item, it is deemed to be agreed that the customer transfers proportional co-ownership to us. The customer shall hold sole ownership or co-ownership thus created in safekeeping for us.
- (7) The customer also assigns to us the claims to secure our claims against him which arise against a third party through the connection of the purchased item with a piece of real property.
- (8) We undertake to release the securities to which we are entitled at the request of the customer to the extent that the realizable value of our securities exceeds the claims to be secured by more than 10%; the selection of the securities to be released is at our discretion.

§ 12 Industrial Property Rights

- (1.) Our "old IP rights" are not affected by the contract. Notwithstanding the use of these industrial property rights for the execution of the development work, this contract does not affect the legal situation of these industrial property rights, in particular, these industrial property rights remain exclusively our property.
- (2.) Inventions which our employees create during work pursuant to this contract in the contractual field of development work ("new IP rights") shall only be claimed by us if we declare the claim to the customer within one month after notification of the invention to the customer. If a declaration of claim is not made within one month after notification of the invention to the customer, we shall waive the property rights. After the expiry of the one-month period, the customer is free to apply for a property right for the invention in his own name.
- (3.) If we declare the claim within the one-month period, the invention will be claimed by us without limitation and will be registered in our name for protection. We are then exclusively entitled to the property rights.
- (4.) If inventions are made jointly by our employees and employees of the customer during the term of the contract in the areas covered by the contract (joint inventions), we shall declare to the customer within one month after the invention about the partial claim to the invention if we wish to claim partial property rights. If no declaration is made, we waive the partial property right.
- (5.) If we make a declaration regarding the joint invention, the joint invention must initially be claimed by the contractual partners as against the employees without restriction, and the joint application for an industrial property right must be filed jointly in our name and that of the customer. The contracting parties will then inform each other immediately about this matter and agree on the respective inventor's shares by mutual consent, and will record the result of this agreement in writing as a supplement to the contract. The contracting parties are then jointly entitled to such property rights. Preparation and execution of these property right applications are carried out by both parties to the contract. The contracting parties shall coordinate and agree on the countries in which corresponding foreign protective rights are to be applied for at least 3 months before expiry of the priority period.
- (6.) In the case of joint applications, we shall immediately send the customer copies of the official correspondence with the patent offices concerning these joint property rights in accordance with § 12 (4.) of this contract. With regard to the industrial property rights arising in accordance with § 12 (2.) of this contract, we are obliged only to provide the customer with a copy of the respective industrial property right application at the respective patent office for information purposes.

- (7.) If we apply for property rights, we shall bear the costs incurred for this. If joint inventions are filed for industrial property rights, the costs incurred shall be borne by the contracting parties in accordance with their share of the inventor's costs; however, the costs pursuant to § 12 (5.) sentence 5 of this Agreement shall be borne by the contracting party which has the sole interest in a corresponding foreign industrial property right.

§13 Abandonment/transfer of industrial property rights

- (1.) If we do not intend to continue or maintain an industrial property right registered in accordance with § 12 (2.), we are obliged to inform the customer of this intention in writing in good time, and to offer to transfer the industrial property right to the customer for free. If the customer declares written acceptance of this offer within 4 weeks of receipt, he must bear the costs of the transfer as well as the continuation and maintenance of this property right; otherwise we are entitled to carry out the intended abandonment or transfer of the property right. In the event of the amicable transfer of such an industrial property right, the contracting parties shall undertake all actions and make all declarations necessary and reasonable for the transfer.
- (2.) If a contractual partner wishes to apply for an industrial property right pursuant to § 12 (5.) sentence 5 in a country for which the other contractual partner does not intend to assume any rights, all rights to the invention shall be transferred to the contractual partner free of charge via this corresponding foreign industrial property right. Otherwise, § 12 (1.) of this contract applies.
- (3.) If a Party does not wish to apply for an industrial property right for an invention or does not wish to continue an application for an industrial property right pursuant to Sections 12 and 13, the Party accepting the invention or application for an industrial property right shall, in place of the other Party, assume the rights and obligations of the inventor's employer on the basis of the provisions of the Law on Employees' Inventions, provided that the respective employee consents thereto; if the employee does not consent, the Party accepting the invention or application for an industrial property right shall indemnify the other Party from all rights and obligations in this respect.

§ 14 Use of industrial property rights

- (1.) We grant the customer a non-exclusive, non-transferable right of use of the old industrial property rights insofar as these rights affect the respective underlying inventions of the development result.
- (2.) The contracting parties shall agree on the conclusion of a license agreement at reasonable and customary conditions in good time before using these old industrial property rights. In the event of a dispute, an expert to be appointed jointly by the contracting parties as a third party within the meaning of § 317 BGB shall decide on what is appropriate and customary in the industry. If the contractual partners cannot agree on a joint expert within 4 weeks, the President of the Chamber of Industry and Commerce in Hanover shall appoint a neutral expert at the request of one of the contractual partners.
- (3.) The contracting parties grant each other non-exclusive, non-transferable, free rights of use with regard to any joint inventions pursuant to § 12 for industrial property right applications made on this basis.
- (4.) We grant the customer an exclusive, non-transferable, free right of use of new industrial property rights in accordance with § 12. The granting of this right of use is compensated by the total remuneration according to "§ 4 Remuneration and payment method". The granted exclusivity is automatically converted into a non-exclusive right of use at unchanged conditions upon 3 years from the termination of this contract.

§ 15 Industrial property rights of third parties

- (1.) The contractor assures to make every effort to ensure that the development results achieved do not infringe the property rights of third parties, but gives no guarantee that this will be the case. Within the scope of this project, we will research potentially conflicting German industrial property rights with our own usual standard of care. We will inform the customer of the result of this research. We assume no liability beyond this obligation. We will immediately inform the customer of any third-party property rights of which we become aware that could be infringed by the use of the project results. We and the customer will decide by mutual agreement whether and in what way any third-party rights which become known are to be taken into account in the performance of the work.

§ 16 Secrecy

- (1.) We and the customer will not make information of a technical or business nature which has been mutually communicated and declared to be confidential accessible to third parties during the duration and after termination of the contractual relationship. This does not apply to information which is generally accessible or for which we or the customer have waived confidential treatment in writing.
- (2.) The contracting parties are obliged to maintain strictest silence about inventions and applications for property rights until the day of disclosure. Consistent with the aforementioned provisions, we are obligated to required contractors and freelancers to agree, in writing, to maintain secrecy. In addition, we commit ourselves to obligate our employees to secrecy in writing and to point out that this secrecy obligation continues to exist after termination of the employment relationship.

§17 Termination of contract

- (1.) If we are in default with our performance, in whole or in part, for reasons for which we are responsible, the customer shall grant a reasonable grace period to permit us to complete performance. If performance is not rendered within this grace period, the customer may terminate the contractual relationship with immediate effect.
- (2.) Notwithstanding the above provisions, this Agreement may be terminated by the contracting parties without notice for good cause. Good cause for extraordinary termination by us exists in particular if the customer does not make payments or does not make them on time, if insolvency proceedings are applied for, or if the customer suffers a deterioration in the value of its assets.
- (3.) Any termination must be made in writing by registered letter.

§ 18 Final Provisions

- (1.) The place of performance and exclusive place of jurisdiction for deliveries and payments, actions on documents and bills of exchange, as well as for all other disputes arising between the parties from the contractual relationship is Hanover, Germany, if the customer is a registered trader, a legal entity under public law, or a special public fund.
- (2.) Legal relations between us and the customer are exclusively governed by the law of the Federal Republic of Germany. The application of international sales law is excluded.
- (3.) The contract remains effective in its remaining parts even if some individual parts are found to be legally invalid. This provision shall not apply if adherence to the contract would impose unreasonable hardship on one of the parties. The parties to the contract will work together to replace the invalid portions of the contract with valid provisions which comes as close as possible to the ineffective part.