

# General Purchasing Conditions of B&M Optik GmbH

## 1. Scope

On the entire relationships of B&M Optik GmbH in Limburg („B&M“) with the supplier, who is an entrepreneur, regarding the purchase of movable objects ("delivery items") and services or works ("Services"), these General Terms and Conditions of Purchase apply exclusively. These General Terms and Conditions of Purchase also apply to all future deliveries and services with the supplier. Should the supplier use conflicting, deviating or supplementary General Terms and Conditions, this is their applicability is excluded, even if B&M does not expressly object to them. If the supplier does not agree to the exclusive validity of these General Terms and Conditions, he must inform B&M of this immediately in a separate letter. In this case, B&M reserves the right to withdraw the order.

## 2. Conclusion of contract, provision of services

(1) The order placed alone is decisive for the scope and type of service. The supplier will issue an order confirmation to B&M within three working days after receipt of the order. B&M can revoke the order if the supplier has not accepted the order in writing within one week of receipt or has not carried it out without reservation.

(2) The drawings, plans or similar that may be sent to the supplier in connection with the order, are part of the order. Are included in the order, any associated drawings, plans or similar. If no specific, precisely defined materials or manufacturing processes are prescribed, the supplier is fully liable for the selection of materials and the production process used.

(3) The supplier must notify B&M in writing of any changes in the composition of the processed material or the structural design compared to similar services previously provided to B&M before the start of production and before the service is provided. Likewise, the change of a subcontractor must be indicated in advance. Such changes require the prior written consent of B&M

(4) Orders, call-offs, terminations, contract changes or supplements or other declarations must be made in writing or in text form. Oral or telephone orders, call-offs, terminations, contract changes or supplements or other declarations are only binding if they are confirmed in writing or in text form by B&M.

(5) The B&M order and article number, including the clerk ID, must be clearly visible on all confirmations, delivery notes, invoices and other correspondence.

(6) B&M is entitled to check the manufacture of the delivery item or the provision of services during normal business hours after notification.

## 3. Terms of delivery (deadlines, default, retention of title)

(1) The agreed delivery and service dates apply. These dates are to be understood as arriving at the place of performance. Unless otherwise agreed, the place of performance for services is the registered office of B&M.

(2) The supplier must inform B&M in writing immediately after they become apparent of all circumstances that could affect the timely delivery or service and the expected duration of the impairment.

(3) Unless otherwise agreed, the delivery must be made free domicile to the delivery address specified by B&M.

(4) Partial deliveries and services before the agreed delivery or execution date are only permissible if B&M expressly agrees to this. Agreed partial deliveries and services before the agreed delivery or execution date have no influence on agreed payment targets and deadlines.

(5) In the event of a delay in delivery, B&M is entitled to demand a contractual penalty of 0.5% of the net delivery value for each completed week, but no more than 5% of the total net delivery value. B&M is entitled to claim a contractual penalty in addition to performance. Any statutory claims for damages are not settled hereby. The acceptance of a delayed delivery or service does not constitute a waiver of any claims for damages.

(6) A retention of title by the supplier is only valid if Verpart of the contract if the retention of title expires with the payment of the price agreed for the reserved goods and B&M is authorized to resell and further process it in the ordinary course of business. Any extended or expanded retention of title by the supplier is excluded.

## 4. Passing of risk, acceptance

(1) The risk passes upon receipt of the delivery "free domicile", unless otherwise agreed. In the case of deliveries with installation or assembly and in the case of services, the risk passes upon acceptance, in the case of deliveries without installation or assembly upon receipt at the delivery address specified by B&M.

(2) Unless otherwise agreed, acceptance of work services takes place at the delivery or service address and requires B&M to issue a certificate in text form. Implied or fictitious acceptance is excluded.

## 5. Prices, terms of payment

(1) Unless otherwise agreed, the agreed price is a maximum price that includes packaging, delivery, insurance, other ancillary costs and taxes. B&M benefits from

price reductions between the time the order is placed and the payment of the invoice.

(2) Payment of the invoice amounts shall be made at B&M's option within 14 days with a 3% discount or within 30 days net, unless otherwise agreed. These periods begin on the day B&M receives the invoice, but not before the delivery item has been delivered or the service has been rendered. The unconditional payment of the invoice amount by B&M does not include any acknowledgment of the supplier's performance as being in accordance with the contract.

(3) Invoices must be sent digitally to the email address invoice@bm-optik.de If this is not possible, postal delivery is acceptable.

(4) B&M is entitled to the statutory rights of offsetting and retention.

(5) The supplier cannot set off claims that B&M disputes or has not been legally established.

(6) The supplier is only authorized to assert a right of retention to the extent that the counterclaims are undisputed, legally binding or recognized by B&M This does not apply if the counterclaims are based on the same contractual relationship.

## 6. Liability for defects, transfer of risk, statute of limitations, obligation to examine, retention of warranty

(1) The supplier will deliver or render the delivery items or services free of material and legal defects and in accordance with the state of the art and the applicable safety regulations. If the supplier has to deviate from the state of the art and the applicable safety regulations due to a B&M specification, he must inform B&M of this immediately.

(2) The risk does not pass to B&M until the delivery arrives at the place of receipt and the delivery note is countersigned or acceptance, if this is required.

(3) B&M must examine the delivery items received for possible faults or deviations in quality. Obvious defects must be reported within 14 days of receipt of the delivery, hidden defects must be reported within 14 days of their discovery.

(4) B&M's claims for defects are based on the statutory provisions.

(5) The acceptance and further processing of goods that are defective or where there is a suspicion of defects does not exclude liability claims against the supplier if B&M notifies the supplier in writing that B&M is forced to do so to be able to process the goods temporarily in order to be able to fulfill our own delivery obligations to customers. If B&M incurs costs in this case due to increased assembly work or repair or improvement work during further processing, the supplier will reimburse these costs on proof.

(6) B&M's claims for defects for deliveries and services become statute-barred in five years, insofar as these are intended for installation in a building according to their usual use, otherwise in 36 months starting with the transfer of risk. For products repaired or subsequently delivered within the limitation period, the limitation period begins again when supplementary performance has been rendered in full.

(7) B&M is entitled to demand a security deposit of 5% of the net order value for claims for defects. The supplier is entitled to redeem the security deposit by providing an unlimited, directly enforceable warranty bond subject to German law from a credit institution approved in the European Union. A deposit is excluded. The retention fee or the guarantee provided for redemption will be paid out or returned upon written request after the warranty period has expired.

## 7. Guidelines, regulations

(1) All delivered goods must comply with the RoHS, REACH and WEEE guidelines. If the goods do not comply with these guidelines, corresponding notes must be clearly visible on all papers (delivery notes, invoices, etc.), and written information about these circumstances must be given immediately after they have been determined.

(2) All delivered goods must have been checked prior to delivery with regard to the regulations of the Dodd-Frank Act, the International Traffic in Arms Regulations (ITAR), and the dual-use regulations. If there is no note on all papers stating that the goods have not been checked accordingly or do not comply with the regulations mentioned, the goods are deemed to have been checked accordingly and are not affected by these regulations.

## 8. Non-disclosure agreement, non-disclosure

(1) Before accepting drawings, plans, samples, tools or similar, the supplier must countersign B&M's Non-Disclosure and Confidentiality Agreement (NDCA). If this was not handed over to him directly by B&M when he was contacted, the supplier is obliged to request this from B&M.

(2) Drawings, plans, samples, tools, etc., provided to which B&M has ownership rights and copyrights may not be made accessible to third parties without B&M's

express written consent disseminated or used for purposes other than those intended by B&M.

(3) The supplier undertakes to treat all B&M information of which it becomes aware as a result of the business relationship as business secrets and not to make it accessible to third parties and to protect it from access by third parties. This confidentiality obligation does not apply if the information has become public knowledge or was already known to the supplier at the time the contract was concluded without a breach of contract by the supplier being the cause.

#### **9. Liability, product liability, infringement of property rights**

(1) The supplier is liable according to the statutory provisions.

(2) If the supplier is responsible for product liability damage, he is obliged to compensate B&M for the resulting damage or to indemnify B&M against claims for damages by third parties. The supplier's obligation to indemnify relates to all expenses that B&M necessarily incurs from or in connection with the claim by the third party.

(3) As part of its above liability for damage, the supplier is also obliged to reimburse any expenses in accordance with §§ 683, 670 BGB or according to §§ 830, 840, 426 BGB that result from or in connection with a recall campaign carried out by B&M or its customers. B&M will inform the supplier – of the content and scope of the recall measures to be carried out, as far as possible and reasonable – and give him the opportunity to comment.

(4) If claims are made against B&M or its customer due to product liability or defects by third parties, the supplier shall indemnify B&M against all claims and claims asserted against B&M if and to the extent that the damage is caused by an error or defect of the supplier's products.

(5) The supplier is obligated to insure himself against the risks associated with product liability for the delivery items he has delivered in an appropriate amount and to provide B&M with appropriate evidence of the insurance cover upon request.

(6) Insofar as the supplier is responsible for the contractual use of the delivery item or the contractual use of its services, an infringement of industrial property rights or an application for industrial property rights in the event of third-party claims, he is liable and releases B&M from all third-party claims arising from the infringement of such industrial property rights.

(7) The contractual partners undertake to inform each other immediately after becoming aware of the risk of infringement and alleged infringement of property rights.

#### **10. Execution of work, provision of materials, spare parts**

(1) The assignment of the rights and claims resulting from the order requires the prior written consent of B&M.

(2) Provided materials remain the property of B&M and are to be stored, labeled and managed separately free of charge with the care that the supplier usually applies to its own affairs. Their use is only permitted for orders from B&M.

(3) Processing or transformation of the material provided by the supplier is done for B&M. If the reserved goods are processed with other items that do not belong to B&M, B&M acquires co-ownership of the new item in relation to the value of the B&M items to the other processed items at the time of processing.

(4) The supplier undertakes to keep spare parts for products delivered to B&M available for a period of 10 years after delivery.

(5) If the supplier intends to stop producing spare parts for the products delivered to B&M, he will inform B&M immediately. This notification must be made at least six months before the end of production.

#### **11. Insolvency, takeover**

**(1) In the event of the supplier's insolvency or the supplier being taken over by another company, B&M reserves its right of segregation, after which all drawings, Plans, samples, tools or similar. Property that is in the possession of the supplier is owned by B&M and is not part of its property, and therefore may not be attributed to the insolvency estate or the acquired company property, and must be handed over by B&M upon request; eat.**

(2) All data that the supplier has created on behalf of B&M or at its own discretion and that is used to manufacture customer-specific products and to provide customer-specific services for B&M must, in the event of insolvency or be made available to B&M in the event of an acquisition by another company.

#### **12. Packaging specifications, marking, disposal**

(1) Agreed packaging specifications must be observed. In principle, reusable packaging must be used to ensure that the logistical processes such as transport, storage, stacking, etc. withstand and the goods will not be damaged. If this is not

possible, appropriate disposable packaging must be used. The supplier is responsible for selecting suitable packaging.

(2) All deliveries must be accompanied by a delivery note showing the order data, the delivery quantity and the exact description of the goods. Furthermore, the corresponding labeling instructions from B&M must be observed.

(3) If disposable packaging is used, B&M reserves the right to charge the supplier for any disposal costs incurred.

#### **13. Obligation to retain, obligation to destroy**

(1) The supplier is obliged to keep all drawings, plans, samples, tools, etc. provided to him. unlimited proper&rszlig; to be kept and marked as property of B&M. The supplier is obliged to insure them against fire, water and theft in favor of B&M and to provide B&M with proof of the existence of the insurance upon request.

(2) After the end of the business relationship, the supplier is obliged to keep all drawings, plans, samples, tools, etc. provided to him. to be destroyed if B&M does not request the surrender of these and the supplier has received written instructions to destroy them.

#### **14. Privacy**

The supplier undertakes to comply with the applicable data protection regulations when executing this contract and to impose compliance with these regulations on employees and vicarious agents. In the case of the processing of personal data by the supplier, the latter must ensure that its employees and vicarious agents comply with data secrecy obligations. The supplier undertakes to provide B&M's data protection officer with evidence of compliance with this obligation in the form required by the statutory provisions upon request. Insofar as it is necessary for the supplier to process personal data in the order, the parties will enter into a contract for order data processing in accordance with § 11 Federal Data Protection Act close. The supplier will only use the data for the purposes set out in writing in the individual case and will not pass them on to third parties without the prior consent of B&M.

#### **15. Minimum Wage Act**

(1) When executing orders from B&M, the supplier undertakes to comply with all obligations incumbent on him and his subcontractors based on the Minimum Wage Act. As proof that the supplier meets these obligations, he must countersign B&M's declaration of release and obligation before executing orders. If this was not handed over to him directly by B&M when he was contacted, the supplier is obliged to request this from B&M.

(2) The supplier undertakes to indemnify B&M against all claims and demands of third parties, including - but not finally - claims of the supplier's own employees, claims of the employees of other subcontractors and commissioned rental companies, official claims including any legally enforceable fines as well as official conditions as well as due to the legal prosecution and legally binding legal defense costs if the asserted claims and demands are based on an alleged breach of the obligations incumbent on the supplier or a subcontractor employed by him based on the Minimum Wage Act.

#### **16. Code of Conduct**

The supplier undertakes to countersign the code of conduct for B&M suppliers in good time, but at the latest before the first delivery or service is rendered. If this was not handed over to him directly by B&M when he was contacted, the supplier is obliged to request it from B&M.

#### **17. General Provisions**

(1) The assignment of the rights and claims resulting from the order requires the prior consent of B&M.

(2) The invalidity of individual provisions of these General Terms and Conditions of Purchase does not affect the validity of the remaining provisions.

(3) Changes and additions to these General Terms and Conditions of Purchase should be made in writing. In the case of a verbal agreement, it requires documentation in text form.

(4) The law of the Federal Republic of Germany applies to all business relationships between the parties; if the supplier is based outside of the Federal Republic of Germany, this applies to the exclusion of the provisions of the UN Convention on Contracts for the International Sale of Goods (CISG).

(5) The place of jurisdiction for all disputes in connection with the contract/delivery transaction is B&M's registered office in 65549 Limburg, including for lawsuits relating to bills of exchange and checks. However, B&M is also entitled to sue the supplier at any other justified place of jurisdiction.