

General Terms and Conditions of Sale, Delivery and Payment of Bott GmbH & Co. KG

(as at 09/2016)

Section 1 Scope of the Conditions

1. These General Terms and Conditions of Sale, Delivery and Payment (T&Cs) apply to all our business relationships with our customers (hereinafter: "Customer") The T&Cs only apply if the customer is a merchant (section 14 BGB), a juridical person under public law or a public-law special asset.
2. In particular, T&Cs shall apply to contracts regarding the sale and/or delivery of moveable items ("Goods"), irrespective of whether we manufacture the goods ourselves or purchase them from subcontractors. Unless agreed otherwise, the version of the T&Cs applicable at the time of the customer's order shall apply, or the version provided in writing as master agreement, also to equivalent future contracts, without our having to refer to them in each case.
3. Our T&Cs shall apply exclusively. Deviating, contradictory or supplemental terms and conditions from the customer shall only become a component of the contract if we have expressly consented to their application. This requirement for consent shall apply in any case, for example if we make the delivery to the customer without reservation in the knowledge of its T&Cs.
4. Individual agreements concluded with the customer in individual cases (including side-agreements, addenda and amendments) shall take precedence over these T&Cs in each case. A written contract or our written confirmation shall apply to the content of such agreements.
5. Legally relevant declarations and notifications made to us by the customer after concluding a contract (e.g. setting of deadlines, reporting defects, declaring withdrawal or deduction), require the written form in order to be binding.
6. References to the application of statutory provisions are merely for information. The statutory references also apply, therefore, without such a reference, unless they are directly amended or expressly excluded by these T&Cs.
7. These T&Cs can be downloaded from: www.bott.de.

Section 2 Offer and conclusion of contract

1. Our offers are subject to change and are non-binding. This is also the case if we have sent the customer catalogues, brochures, circulars, notifications, price lists, cost estimates, technical documentation (e.g. designs, sketches, calculations, illustrations, drawings, plans, references to DIN standards), other product descriptions or documents – also in electronic form. We retain the ownership rights and copyright. Any use, replication, reproduction, dissemination and provision to third parties, publication and presentation, may only be performed with our express consent.
2. The customer's order for the goods is deemed to be a binding contractual offer. Unless stated otherwise in the order, we reserve the right to accept this contractual offer within 14 days after we receive it.
Acceptance can be declared either in writing (e.g. by the order confirmation) or by delivering the goods to the customer.
3. The details in our specifications shall apply exclusively to the conditions of the delivery object owed by us. The acceptance of guarantees and a procurement risk require express, written agreements between the parties, in which the terms Guarantee and the Procurement risk are expressly used.

Section 3 Prices

1. Unless agreed otherwise, the prices for the work and services listed in the order confirmation shall apply. Additional or special work and services are charged separately. The prices are in EURO (€) ex works, including loading in the plant, plus VAT.
2. Additional costs for packaging, transport including unloading, insurance, customers, charges, taxes or other public charges, shall be borne by the customer; they are charged separately.
3. Insofar as the agreed prices are based on our list prices and the delivery is to be made more than two months after concluding the contract, our valid list prices at the time of delivery shall apply. If the original price has increased by more than 20 %, the customer can withdraw from the contract.
4. If despatch is delayed at the customer's request, it shall bear any costs incurred, which shall also be charged separately.

Section 4 Payment

1. Invoice amounts must be paid without deduction within ten days of delivery of the goods, unless agreed otherwise in writing. The date of payment is the date of receipt by us.
2. In the event of new business connections or if there is negative information concerning the customer, we reserve the right to demand prepayment before delivery or cash on delivery.
3. If the customer still has unpaid invoices, payments made shall be applied to the oldest due debt.
4. If, after concluding the contract, we become aware of circumstances that possibly reduce the customer's creditworthiness significantly and which threaten the payment of our outstanding receivables due from the customer from the respective contractual relationship (including from other individual orders, to which the same general agreement applies), we reserve the right to make out-

standing deliveries or to perform services only if paid in advance or if a security deposit is paid.

5. If the customer does not fulfil its payment obligations, in particular if it suspends payments, we reserve the right immediately to demand payment of the total outstanding amount. In this case, we also reserve the right to refuse performance or to provide services until the customer has paid the consideration or has provided a security deposit to a sufficient extent for the outstanding deliveries, work and services.
6. If, after concluding the contract, it becomes clear (e.g. by motion for opening of insolvency proceedings) that our claim to the purchase price is at risk due to the customer's lack of solvency, we reserve the right to refuse performance and – if applicable after a notice period – withdraw from the contract according to the statutory provisions (Section 321 BGB). For contracts regarding the production of single items (individual productions), we can declare withdrawal immediately; the statutory provisions regarding the omission of a notice period shall remain unaffected.
7. The offsetting against the client's counterclaims or the withholding of payments is only permitted if the counterclaims are undisputed or legally upheld.

Section 5 Extent and type of delivery, disposable packaging, technical changes

1. The extent of the delivery is determined by our details in the order confirmation. Side-agreements and amendments require our written confirmation.
2. We do not collect disposable packaging.
3. We reserve the right to make technical changes, including design changes, to our products if this does not affect the technical functions or if this is normal on the market and is reasonable for the customer. We also reserve this right in respect of the technical change to ready-to-use equipment.
However, we are not required to make such changes to products already delivered. The customer cannot derive any rights from this.

Section 6 Delivery period and delivery delay

1. The delivery period is agreed individually and is stated by us upon acceptance of the order. If this is not the case, the delivery period shall be approx. six (6) weeks from conclusion of contract.
2. Insofar as we are unable to comply with binding delivery periods for reasons, for which we are not responsible (non-availability of the performance), we shall immediately inform the customer of this and at the same time state the estimated, new delivery period. If the performance is not available within the new delivery period either, we reserve the right to withdraw from the contract in part or in full; we shall immediately refund any consideration already paid by the customer. A case of non-availability of performance in this sense is, in particular, if our suppliers are unable to make a delivery to us on time, if we have concluded a congruent cover transaction, if neither we nor our supplier is at fault or if we are not required to make a purchase in the individual case.
3. The start of our delivery delay is determined according to the statutory provisions. In any case, however, a reminder from the customer is required. If we are late with a delivery, the customer can demand estimated compensation for its damages caused by delay. The rate for damages for each full calendar week of delay is 0.5% of the net price (delivery value), but not more than 5% of the delivery value of the goods delivered late. We reserve the right to prove that the customer has not incurred any or only significantly smaller damages than the above amount.
4. The customer's rights according to Section 12 of these T&Cs and our statutory rights, in particular with an exclusion of the duty to perform (e.g. because of impossibility or unreasonableness of the performance and/or non-performance), shall remain unaffected.

Section 7 Delivery, transfer of risk, acceptance, acceptance delay

1. Delivery shall be ex warehouse, which is also the place of performance for the delivery and any supplementary performance. Upon demand from the customer and at the customer's cost, the goods shall be sent to a different destination (sales shipment). Unless agreed otherwise, we reserve the right to determine the type of shipment (in particular the transport company, dispatch route, packaging).
2. The risk of accidental destruction and accidental deterioration of the goods shall transfer to the customer upon transfer of the goods at the latest. For mail-order purchases, however, risk of inadvertent destruction and inadvertent deterioration of the goods and the risk of delay shall transfer to the customer upon delivery of the goods to the haulier, freight carrier or other persons or organisations charged with transporting the goods. Insofar as acceptance is agreed, this shall be decisive for the transfer of risk. Moreover, the statutory provisions of the work and services contract law shall apply correspondingly to the agreed acceptance. Transfer or acceptance also applies if the customer is late accepting the goods.
3. If the customer is late accepting the goods, if they omit a duty of cooperation or if our delivery is delayed for other reasons attributable to the customer, we reserve the right to demand compensation for resulting damages, including

additional costs (e.g. storage costs). We charge compensation for this at a flat rate of € 50 net per Euro pallet per calendar day, starting from the delivery deadline or – if there is no delivery deadline – upon notification of the goods' readiness for shipping.

Proof of higher damages and our statutory claims (notably additional costs, reasonable compensation, termination) shall remain unaffected; the flat rate shall be added to other cash claims, however. The customer reserves the right to prove that we have not incurred any or only significantly smaller damages than the above amount.

Section 8 Transfer of risk, force majeure

1. The risk of inadvertent destruction and inadvertent deterioration of the goods shall transfer to the customer at the latest upon transfer of the goods or from the time when the customer first delays the acceptance. For mail-order purchases, however, risk of inadvertent destruction and inadvertent deterioration of the goods and the risk of delay shall transfer to the customer upon delivery of the goods to the haulier, freight carrier or other persons or organisations charged with transporting the goods.

2. Severe events, in particular such as force majeure, labour disputes, unrest, military or terror disputes, which result in unforeseeable consequences for the provision of services, shall release us from our duty of service for the duration of the disruption and to extent of their impact, even if we would be in default. This does not entail a dissolution of the contract. We shall immediately inform the customer of such a hindrance and in good faith shall adjust our obligations to the altered conditions.

Section 9 Retention of title

1. Until complete payment of all our current and future claims from the purchase agreement and a current business relationship (secured demands) we shall retain ownership of the sold goods.

2. The goods subject to retention of title may not be pledged to third parties or used as collateral until full payment of the secured claims. The customer shall immediately inform us in writing if and insofar as third parties intervene in the goods belonging to us.

3. If the customer is in breach of the contract, in particular non-payment of the due purchase price, we reserve the right according to the statutory provisions to withdraw from the contract and/or to demand the return of the goods on the basis of retention of title. The demand for return of the goods does not also include a declaration of withdrawal; indeed we reserve the right merely to demand the return of the goods and to reserve the right of withdrawal. If the customer does not pay the due purchase price, we shall only exercise this right if we have previously set the customer a reasonable deadline for payment, without success, or if such a deadline can be waived according to the statutory provisions.

4. The customer may sell and/or process the conditional goods as part of its normal business. In this case, the following conditions shall also apply:

(a) The retention of title shall cover the products created as a result of the processing, mixing or combining of our goods, to the full value, whereby we are deemed to be manufacturer. If third-party retention of title remains after processing, mixing or combining with third party goods, we shall become joint owners in relation to the invoice values of the processed, mixed or combined goods. Moreover, the same also applies to the created product as to the conditional goods delivered.

(b) The customer herewith assigns to us as security all demands against third parties from the resale of the goods or the product in full, or to the amount of any joint ownership according to the above paragraph. We accept this assignment. The customer's duties in para. 2 shall also apply to respect of the assigned claims.

(c) The customer shall remain authorised by us to collect the claims. We shall not collect the claims as long as the customer fulfils its payment obligations to us, is not in default, as long as no application is made for insolvency proceedings to be opened and there are no other defects in respect of its performance. However, if this is the case, we can demand that the customer discloses the assigned claims and their debtors, provides all information required for collection, hands over the accompanying documents and informs the debtors (third parties) of the assignment.

(d) If the realisable value of the collateral exceeds our demands by more than 10%, upon request from the customer we shall release collateral at our discretion.

Section 10 Insurance

We reserve the right to insure the goods at the customer's costs against theft, breakage, fire, water and/or other damage, unless the customer demonstrates that it has purchased the insurance itself.

Section 11 Duties of product monitoring and product warning

1. In order to protect itself and the end customer from risks of all kinds, the customer shall monitor the products supplied by us in terms of technical safety (duty of product monitoring). If it becomes clear that there are risks from the product, the customer shall immediately inform us in writing of this. (Duty of product warning).

2. Insofar as we are sued by third parties for breach of the duties of product monitoring and product warning, and this is due to a breach of the duties of product monitoring and product warning by the customer, the customer shall indemnify us from damages incurred due to its breach of duty.

Section 12 Customer's claims due to defects

1. The statutory provisions shall apply to the customer's rights in respect of material and legal defects (including wrong and short deliveries), unless agreed otherwise below. In all cases, the statutory special provisions for final delivery of the goods to the consumer shall remain (supplier's recourse according to Section 478, 479 BGB).

If the delivered goods are used items, all warranty claims are excluded, unless expressly agreed otherwise in writing.

2. The basis of our liability for defects is the agreement concerning the condition of the goods. The specification provided to the customer shall be deemed to be the agreement concerning the condition of the goods. If the condition is not agreed, the statutory provisions shall apply as to whether there is a defect or not. However, we do not assume liability for public statements by use, our vicarious agents or other third parties (e.g. advertising).

3. The customer's claims due to defects require that it has fulfilled its statutory duties of inspection and complaint (Sections 377, 381 HGB). If a defect is identified during a check or subsequently, we must immediately be informed in writing. The notification is immediate if it is made within two weeks, whereby the timely sending of the notification is sufficient for the deadline to be observed.

Irrespective of this duty of examination and complaint, the customer has to report obvious defects (including incorrect and short deliveries) in writing within two weeks from delivery, whereby the timely sending of the notification is sufficient for observing the deadline. If the customer omits the proper examination and / or notification of the defect, our liability is excluded for the non-reported defect.

4. If the delivered goods are defective, we can initially choose the supplemental performance, either to repair the defect (repair) or to deliver a defect-free item (replacement). Our right of supplemental performance subject to refuse under the statutory provisions remains unaffected.

5. We reserve the right to make supplemental performance dependent on the customer paying the remuneration due. The customer reserves the right, however, to retain part of the remuneration in proportion to the defect.

6. The customer shall grant us the time and opportunity to carry out the owed supplemental performance, in particular to return the defective goods for examination. In the case of replacement, the customer shall return the defective item to us according to the statutory provisions.

The supplemental performance does not include removal of the defective good or the installation if we were not originally required to install it.

7. We shall bear the costs incurred for testing and supplemental performance, in particular transport, travel, labour and material costs (not: removal and installation costs) if there is actually a defect. Otherwise, we can demand that the customer pays the costs incurred for unjustified demands for correction of defects (in particular test and transport costs), unless the lack of defect was not discernible for the customer.

8. In urgent cases, e.g. if there is a risk to works safety or to prevent disproportionate damage, the customer reserves the right to correct the defect itself and to demand reimbursement for the objectively necessary costs for this. We must be informed immediately of any such work, in advance if possible. There is no right to perform the work if we would have been entitled to refuse a corresponding subsequent performance according to the statutory provisions.

9. If the supplemental performance fails or if the period set by the customer for supplemental performance has expired without success or can be waived according to the statutory provisions, the customer can withdraw from the purchase contract or reduce the purchase price. In the case of an insignificant defect, there is no right of withdrawal, however.

10. Claims by the customer for compensation or reimbursement of expenses incurred in vain shall only exist according to the conditions of s. 13 and otherwise are excluded.

Section 13 Other liability

1. Unless stated otherwise in these T&Cs, including the following conditions, we are liable in the event of a breach of contractual and non-contractual duties according to the statutory provisions.

2. (a) We are liable for compensation – irrespective of the legal reason – within the framework of fault-based liability in the event of culpable and gross negligence.

(b) In the case of simple negligence, subject to a less strict liability measure according to the statutory provisions (e.g. for due care and attention in our own matters) we are only liable for damages we should have foreseen when concluding the contract as a possible consequence of a breach of contract or should have foreseen when applying due care and attention. Indirect damages and consequential damages, which are the result of defects to the delivered goods, can also only be reimbursed if these damages are expected during correct use of the object of direct delivery.

In the case of simple negligence, our liability is also limited to the amount of € 100,000.00 per loss event.

The above liability restrictions according to para. (2) (b) sent. 1 to 3 do not apply, however

(l) to damages from injury to life, limb or health,

(II) to damages from the not inconsiderable breach of a material contractual duty (material contractual duties are those whose fulfilment facilitates the proper realisation of the contract and on whose fulfilment the client can rely on; these include, in particular, duties of consultation, safety and protection, which should facilitate the contractual use of the delivered goods by the customer or should protect the health and safety of the customer's staff or protect its property against considerable damage); in this case our liability is limited, however, to replacement of the foreseeable, typically occurring damage.

(III) if we have maliciously concealed a defect or have assumed a procurement risk or guarantee for the condition of the goods,

(IV) to claims according to the Product Liability Act.

(c) The above liability restrictions according to para. (2) (b) apply in the same extent to breaches to duties by or attributed to persons, whose fault we are responsible for according to the statutory provisions (in particular our management bodies, statutory representatives, employees and vicarious agents).

3. Because of a breach of duty which does not result from a defect, the customer can only withdraw or terminate if we are responsible for the breach of duty. A free right of termination for the customer (in particular according to sections 651, 649 BGB) is excluded. Moreover, the statutory provisions and legal consequences shall apply.

Section 14 Expiration

1. The general expiration period for claims from material and legal defects is 1 year from delivery. Insofar as acceptance is agreed, the expiration period shall start upon acceptance.

2. If the goods are a building or item, however, which have been used for a building according to its normal usage, and which caused its defect, the expiration period according to the statutory provisions is 5 years from delivery. Other special statutory provisions (notably Sections 438 para. 1 No. 1, para. 3, Sections 444, 479 BGB) remain affected.

3. These expiration periods also apply to contractual and non-contractual claims for compensation by the customer, which are based on a defect to the goods, unless the application of the regular statutory expiration period (sections 195, 199 BGB) would lead to a shorter period in individual cases.

These expiration periods do not apply, however, to claims by the customer for compensation according to these T&Cs. Nor do they apply if we maliciously conceal a defect, have assumed a guarantee or procurement risk. Claims for compensation by the customer according to Section 10 para. 2 sent. 1 and sent. 2 (a), as well as according to the Product Liability Act shall expire exclusively after the statutory periods, however.

4. The statutory expiration periods for claims for redress by the customer according to Section 478 BGB and the expiration provisions according to the Product Liability Act or other applicable statutory liability cases shall also remain unaffected.

Section 15 Order-based requirements and supplies

1. If, in accordance with the contract, the use of certain production equipment, devices, tools and designs, drawings or samples, are prescribed or supplied by the customer for the order or are produced, ordered or supplied on behalf of the customer, the customer guarantees the correctness of the information and the usability of the supplies. In addition, the customer guarantees that the use of this equipment and these devices and/or other requirements does not breach third-party property rights or other third-party rights.

2. Order-related equipment according to s. 14 (1) shall remain our property unless agreed otherwise. This is also the case if the customer pays us the costs on a pro rata basis, but not in full.

3. If the customer is owner of the order-related equipment, the customer shall collect the supplies from us upon request and after a reasonable period. If the period expires without success, we reserve the right to dispose of the supplies and to charge the customer the costs for this.

Section 16 Business secrets

1. Plans, drawings and technical documents provided by the customer shall remain our property. Without our consent, the customer may not use, copy, reproduce them or provide or make accessible or disclose them to third parties. This is also the case if these documents are not marked confidential.

2. The customer shall ensure that its employees, advisors, shareholders and others, who become aware of these business secrets, are required in writing to maintain confidentiality in respect of our business secrets to the extent described.

These obligations also apply after the end of the contractual relationship.

Section 17 Place of performance, place of jurisdiction

1. Unless expressly agreed otherwise, place of performance is our place of domicile in Gaildorf. If we also owe installation or other services that can only be provided on site, place of performance for these services is the location where the installation or other service has to be performed.

2. If the customer is a merchant as defined in the Commercial Code, a juridical person under public law or a public-law special asset, the exclusive – also international – place of jurisdiction for all disputes deriving directly or indirectly from the

contractual relationship is our place of domicile in Gaildorf. This shall apply correspondingly if the customer is a business as defined in Section 14 BGB. However, in all cases we also reserve the right to sue at the place of performance of the delivery obligation according to these T&Cs or a priority individual agreement or at the customer's general place of jurisdiction. Priority statutory provisions, in particular regarding exclusive responsibilities, shall remain unaffected.

Section 18 Applicable law, contractual law, German version

1. These T&Cs and all the legal relationships between us and the customer are subject to the law of the Federal Republic of Germany to the exclusion of all references to other jurisdictions and international agreements. The application of the UN Convention on the International Sale of Goods is excluded.

Prerequisites and the effects of the retention of title are subject to the law at the location of the goods, if the selection of German law is not permitted or is invalid.

2. The contractual language is German.

3. Only the German version of these T&Cs is binding, the English version is exclusively for information.

Section 19 Pending negotiations, saving clause

1. Pending negotiations regarding claims due to material defects or other claims for compensation shall only exist if the parties have stated in writing that they have to negotiate such claims. If the claim based on this written form requirement represents misconduct, neither party can claim on basis of compliance with this written form requirement.

2. If a provision of these T&Cs is or becomes invalid, this shall not impact on the validity of all other provisions. If other agreements are or become invalid within the framework of the cooperation with the customer, the validity of all other agreements shall not be affected thereby. In this case, the invalid condition shall be interpreted or amended such that the commercial purpose intended with the invalid condition is legally achieved.

Note:

The customer acknowledges that we save data from the contractual relationship in accordance with Section 28 Federal Data Protection Act for data processing and reserve the right to transmit the data to third parties (e.g. insurance) for executing the contract.

Bott GmbH & Co. KG

Bahnstrasse 17, 74405 Gaildorf, Germany
Tel: +49 (7971) 251-0 Fax: +49 (7971) 251-166
info@bott.de, www.bott.de