

General Terms and Conditions of Business for Services

Clause 1 General – Scope of Application

- Our General Terms and Conditions of Business constitute part of the contract and apply exclusively. We do not recognise terms and conditions set by the Customer which contradict or deviate from our terms and conditions, unless we have consented to their validity in writing. We, therefore, also do not recognise deviating conditions if we, having knowledge of the terms and conditions set by the Customer which contradict or deviate from our terms and conditions, carry out the assignment without reservation.
- Our Gen. Terms and Conditions of Business also apply to all future business with the Customer, provided it concerns a mutual commercial transaction. The version valid at the time of concluding the contract is decisive.
- Agreements which we have made with the Customer which deviate from or supplement our General Terms and Conditions of Business take precedence over these General Terms and Conditions of Business provided they have been agreed on between the parties in writing. Verbal agreements are only binding if they have been confirmed in writing.
- Regarding our information obligations according to the EU GDPR we refer to our Data privacy statement which can be found at <https://www.bertrandt.com/en/privacy-note.html>.

Clause 2 Quotations – Commencement on Performance of the Order

- Our quotations are subject to change without notice, unless otherwise expressly stated.
- Assignments given to us verbally by the Customer are also binding. Verbal orders must be confirmed in writing by the Customer.
- An order is considered placed if we commence performance of an order with the knowledge of the Customer before agreement is reached on all points of an order and without the Customer objecting.
- The object of our activity is at all times the agreed service and not the achievement of a particular financial result.

Clause 3 Prices – Price Adjustments

- Our prices are net prices, unless otherwise expressly stated. Value-added tax at the statutory rate is detailed separately in the invoice.
- In the event that the statutory rate of the value-added tax is amended, we will adjust our payment to the same extent and on the date of the amendment without this giving the Customer a right to terminate the contract.
- Additional services are invoiced separately.
- We reserve the right in the case of continuing obligations to adjust our prices accordingly, if after conclusion of the contract cost reductions or cost increases, e. g. due to conclusion of a collective agreement, take place. We will give the Customer four (4) weeks' notice of the adjustment and, on request, provide evidence of said adjustment.

Clause 4 Payment Terms and Conditions

- Unless otherwise agreed, we will present the service we have performed broken down into day and number of hours to the Customer for signature. On signing, the Customer acknowledges the services performed both in terms of content and amount as contractual.
- Any material costs which arise are remunerated separately. Time spent waiting by our employees for which the Customer is responsible is remunerated as working hours. Travel costs and expenses which are incurred in performance of our service are passed on to the Customer, provided that such is contractually agreed upon separately.
- Unless otherwise agreed in writing, we are entitled to issue monthly invoices. The agreed remuneration without any deduction shall be due within fourteen (14) days from receipt of the invoice. Our invoices are considered acknowledged, if the Customer does not object in writing within two weeks from receipt of the invoice.
- We are not obliged to accept bills of exchange, cheques or promissory notes; in all cases, acceptance is on account of performance only. The Customer shall defray all bill and discount charges; they shall fall due for immediate payment. If the Customer is late in making a payment, we are entitled to return any accepted bills of exchange before they expire and demand immediate cash payment.
- The Customer has a right of retention only in the case of counter-claims originating from other legal transactions with us.
- The Customer may only offset our claims with undisputed or legally established claims.

Clause 5 Execution of Orders

- The Customer is obliged to inform us of any laws, standards and other regulations based on which he wishes the service to be performed before placing the order. Before placing an order, the Customer shall also provide us on request with all data, documents and other information in written form which must be taken into account in performance of the service. The Customer shall defray any additional costs incurred by not fulfilling these duties to provide information and cooperate. We are not liable for damage which is attributable to non-fulfilment of duties to cooperate or to the provision of incorrect or incomplete information. Any intermediate deliverables provided must be checked by the Customer without delay to ensure that the details contained in them regarding its business are correct and complete.
- Delivery and performance times as well as changes thereof are by rule binding only if they have been consensually agreed to.

Clause 6 Subcontracting of Service

We are entitled to engage a third party to perform the service and to sub-assign the order in whole or in part, provided that any interests of the Customer warranting protection are not affected in doing so.

Clause 7 Rights to Deliverables

- If material deliverables arise in performance of the service, the deliverables in their embodied form at the time and the associated documentation shall become the property of the Customer with payment of the individually contractually agreed remuneration.
- If, in performance of the service, rights arise which are protectable by us, the Customer shall irrevocably receive, with payment of the individually contractually agreed remuneration, the exclusive, solely transferrable, chronologically, materially and geographically unlimited right to use and exploit the deliverable – personally or through third parties – in unchanged or changed form to all known forms of use. This right to use and exploit deliverables includes, in particular, the right to duplicate, disseminate using any medium in physical or non-physical form, make available, reproduce publicly, publish, process and/or restructure, market, also through leasing and hiring, and grant third parties any rights of use for all types of use, solely and with free discretion, itself or through a third party. This also includes the right to online use on all communication networks (Internet etc.) as well as use on fixed and mobile data networks and on end devices (e.g. mobile phones, organizers, etc). In the event that the deliverables of software programs are involved, we shall transfer the aforementioned rights of use as well as the software concerning the object code and concerning the source to the Customer.
- We expressly waive the right to be named as the author of the deliverable.
- In the event that costs or other financial obligations arise as a result of transferring rights (in particular in accordance with the German Employee Inventions Act), these shall be defrayed by the Customer and shall to this extent indemnify us against any claims asserted against us.

Clause 8 Withdrawal, Termination

- The Customer does not have any legal right of withdrawal in the event that a service is not performed or not performed pursuant to the contract, if we are not responsible for the breach of obligation. However, the above does not apply if the Customer has a no-fault right of withdrawal derived from special agreements (e.g. a sale at a fixed point in time).
- Unless otherwise agreed, both parties may terminate the contractual relationship in writing at six (6) weeks' notice to the end of the month. The right of extraordinary termination is not affected by this.
- If the Customer terminates the contract, our services shall be settled proportionately up until termination comes into effect. In addition, the Customer shall reimburse us for any costs which we can demonstrate that we incurred on the occasion of and for the direct purpose of performance of the terminated scope of services in observance of the diligence of a prudent businessman and which are or were reasonable or no longer avoidable.

Clause 9 Liability

- Our liability is excluded irrespective of legal basis. This limitation of liability does not apply to intentional or grossly negligent action on our part, damages resulting from injury to life, body and health as well as in the event of a breach of material contractual obligations. Material contractual obligations are obligations which protect legal positions of the customer that are material to the contract, which the contract, already in accordance with its contents and purpose, shall guarantee to him, as well as obligations without whose fulfilment proper performance of the contract would not be possible at all and whose adherence the Customer may in general count on. In the event of a slightly negligent breach of material contractual obligations, our liability is however limited to compensation of damage that is foreseeable and typical at the time of conclusion of the contract.
- Limited liability also applies to our employees as well as their vicarious agents and sub-contractors.
- Reversal of the burden of proof is not evoked by the above rules.

Clause 10 Rights of Third Parties

The Customer is responsible for ensuring that when we execute the order in accordance with its specifications that we do not infringe on any rights of third parties. In the event that a claim in this case is brought against us by a third party due to infringement of their rights, the Customer is obliged to indemnify us against such claims. The indemnity obligation also includes all expenses (especially costs of legal proceedings) which we incur necessarily in connection with a claim by a third party.

Clause 11 Deterioration of the Customer's assets

- If, after conclusion of the contract, we become aware of facts which put into question the ability of the Customer to pay, we are entitled, before further execution of the order, to demand full payment or provision of relevant security or, after setting an appropriate time limit for full payment or provision of security, to withdraw from the contract.
- Facts which put into question the ability of the Customer to pay are, in particular, permanent attachments or other enforcement measures and an application to initiate insolvency proceedings.

Clause 12 Force Majeure

- If a service is not possible due to force majeure, especially due to shortage of raw materials, energy and labour, labour disputes, serious transport disruptions, non-culpable or unforeseeable disruptions to operations, official measures not attributable to us, pandemics or other events for which we are not responsible, we are not obliged to perform the service for as long as the prevention lasts, provided that we have provided prompt written notice to the Customer of such.
- If the preventions as set out in paragraph 1 last longer than four (4) months, we have the right to withdraw from the contract, if performance of the contract is no longer of interest

to us as a result of the prevention and we have not assumed the procurement or manufacturing risk. At the request of the buyer, we shall, after the term has expired, declare whether we are withdrawing or whether we will fulfil our service duties within an appropriate fixed term.

Clause 13 Confidentiality

Only data, plans and other documents and information which have been expressly declared in writing by the Customer as confidential are subject to any confidentiality obligation agreed between the parties. If information is provided verbally by the Customer, a written statement classifying the information as confidential must be given within ten (10) days after it was provided. The confidentiality obligation does not apply if the disclosed information is publicly known or becomes publicly known due to no fault of our own, if we acquire the confidential information ourselves without utilising information from the Customer or if the law or an authority requires us to disclose it due to a mandatory statutory regulation. If in doubt, the confidentiality obligation commences with disclosure of the information and lasts for a period of three (3) years.

Clause 14 Recruitment

If the Customer directly or indirectly concludes a contract of employment with an employee used in the provision of the service in the first month of the provision of the service or directly after the provision of the service has ended, we are entitled to charge 15% of the yearly income of the employee plus statutory value-added tax as a fee. After 3 months of service provision this fee shall be reduced to 12% of the yearly income of the employee plus statutory value-added tax, after 6 months of service provision this fee shall be reduced to 9% of the yearly income of the employee plus statutory value-added tax and after 9 months of service provision this fee shall be reduced to 5% of the yearly income of the employee plus statutory value-added tax. The fee shall no longer be charged after twelve (12) complete months since provision of the service has expired. The relevant fee shall be due in one sum with conclusion of the employment contract between the employee and the Customer. This does not apply if the work of the employee in providing the service is not the cause of said employee being employed with the Customer. The Customer bears the burden of proof for non-causality. The Customer is responsible for providing information to enable us to establish the yearly income.

Clause 15 Final Provisions

1. The place of performance is the site of our company's head office.
2. The legal venue for all present and future claims arising from the business relationship with businesses is exclusively the site of our company's head office. The same legal venue applies if the Customer does not have a general legal venue domestically, relocates its domicile or usual place of residence abroad after conclusion of the contract or its domicile or usual place of residence is not known at the time the action is brought. However, we are entitled to bring an action against the Customer at its place of business or any other permitted legal venue as well.
2. German law applies to all legal relationships exclusively. The UN Convention on Contracts for the International Sale of Goods of 1980 and other conflict of law rules do not apply.
3. If a point in the contractual relationship with the supplier is or later becomes invalid in whole or in part for reasons other than Sections 305-310 of the German Civil Code, the validity of the other provisions shall not be affected, provided that, in considering the subsequent regulation, performance of the contract does not cause unreasonable hardship for one party. The parties are aware of the legal precedent of the Federal High Court of Justice whereby a severability clause solely reverses the burden of proof. However, it is the express will of the parties to maintain the validity of the other contractual provisions under all circumstances and therefore contract out Section 139 of the German Civil Code. The same applies to a gap in the contractual relationship. A suitable provision shall replace the invalid or impracticable provision that comes as close as possible to that which said parties wanted or would have wanted had they considered the point at the time of the conclusion of this agreement or at the time of the later inclusion of a provision.